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COMMISSION ON HUMAN RIGHTS
Fiftieth session
Agenda item 26

# DRAFT REPORT OF THE COMMISSION

Rapporteur: Mr. François-Xavier NGOUBEYOU

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## XXIII. FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

1. The Commission considered agenda item 23 at its 63rd and 66th meetings, on 8 and 9 March 1994. 1/

2. The Commission had before it the following documents:

Vienna Declaration and Programme of Action (A/CONF.157/23);

Report of the World Conference on Human Rights (A/CONF.157/24) (Part I).

3. At its 63rd meeting, during the general debate on item 23, statements were made by the following members of the Commission: Australia, Brazil, Chile, China.

4. At the same meeting, the Commission heard statements by the following non-governmental organizations: International Association for the Defence of Religious Liberty, International Lesbian and Gay Association.

5. On 4 March 1994, draft resolution E/CN.4/1994/L.94 was introduced by Albania*, Argentina*, Armenia*, Australia, Austria, Belgium*, Belize*, Brazil, Bulgaria, Canada, Croatia*, Czech Republic*, Ecuador, France, Germany, Hungary, Ireland*, Italy, Jordan*, Liechtenstein*, Madagascar*, Mauritius, Mongolia*, Netherlands, Norway*, Pakistan, Peru, Poland, Republic of Korea, Romania, Russian Federation, Senegal*, Slovakia*, Swaziland*, Sweden* and Ukraine.

6. At the 66th meeting, Austria introduced revised draft resolution E/CN.4/1994/L.94/Rev.1, with the same sponsors as draft resolution E/CN.4/1994/L.94, joined by Barbados, Cyprus, Greece*, Israel*, Mauritania, New Zealand, Spain*, Switzerland* and Tunisia. Algeria*, Angola, Cameroon, Chile, Costa Rica, Côte d'Ivoire, Denmark*, El Salvador, Gambia*, Haiti, Japan, the Libyan Arab Jamahiriya, Morocco*, Slovenia, the United States of America, Uruguay and Venezuela subsequently joined the sponsors.

7. The draft resolution was adopted without a vote.

8. For the text adopted, see chapter II, section A, resolution 1994/95.

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## XXIV. ELECTION OF MEMBERS OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

1. The Commission considered agenda item 24 at its 59th meeting, held on 7 March 1994. 2/

2. The Commission had before it a note by the Secretary-General containing nominations of candidates for election to membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and biographical data on the candidates (E/CN.4/1994/85 and Add.1-4).

3. In accordance with Economic and Social Council resolutions 1334 (XLIV) of 31 May 1968 and 1986/35 of 23 May 1986 and decisions 1978/21 of 5 May 1978 and 1987/102 of 6 February 1987, the Commission, at its forty-fourth session (39th meeting, held on 29 February 1988), elected by secret ballot 26 members of the Sub-Commission from nominations of experts made by States Members of the United Nations on the following basis: (a) seven members from African States; (b) five members from Asian States; (c) three members from Eastern European States; (d) five members from Latin American States; (e) six members from Western European and other States.

4. Pursuant to Economic and Social Council resolution 1986/35, members of the Sub-Commission are elected for a term of four years, and half of the membership and the corresponding alternates, if any, are elected every two years.

5. As the term of office of half of the membership of the Sub-Commission had expired, the Commission was called upon to hold a new election of Sub-Commission members and alternates on the following basis: three members from African States; three members from Asian States; one member from Eastern European States; three members from Latin American States; and three members from Western European and other States.

6. The Commission elected by secret ballot 13 members of the Sub-Commission, and their corresponding alternates, if any, for a period of four years. The following candidates were elected:

African States

| | |
|---|---|
| Mrs. Lucy Gwanmesia | Cameroon |
| Mr. Pierre Sob a/ | |
| Ms. Judith Sefi Attah | Nigeria |
| Mrs. Christy Ezim Mbonu a/ | |
| Mr. El-Hadji Guissé | Senegal |
| Mr. Ndary Toure a/ | |

Asian States

| | |
|---|---|
| Mr. Fan Guoxiang | China |
| Mr. Zhong Shukong a/ | |
| Mr. Mohammed Sardar Ali Khan | India |
| Mr. Osman El-Hajje | Lebanon |

Eastern European States

| | |
|---|---|
| Mr. Stanislav Chernichenko | Russian Federation |
| Mr. Teimuraz Ramishvili a/ | |

Latin American States

| | |
|---|---|
| Mr. José Augusto Lindgren Alves | Brazil |
| Mrs. Marília Sardenberg Zelner Gonçalves a/ | |
| Mr. José Bengoa | Chile |
| Mr. Mario Ibarra a/ | |
| Mr. Miguel Limón Rojas | Mexico |
| Mr. Héctor Fix Zamudio a/ | |

Western European and other States

| | |
|---|---|
| Mr. Louis Joinet | France |
| Mr. Emmanuel Decaux a/ | |
| Mrs. Erica-Irene Daes | Greece |
| Mrs. Kalliopi Koufa a/ | |
| Ms. Claire Palley | United Kingdom of Great Britain and Northern Ireland |
| Mr. John Merrills a/ | |

a/ Alternate.

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## III. ORGANIZATION OF THE SESSION

### A. Opening and duration of the session

1. The Commission on Human Rights held its fiftieth session at the United Nations Office at Geneva from 31 January to 11 March 1994. It held 69 meetings (E/CN.4/1994/SR.1-69) 1/ during the session.

2. The session was opened by Mr. Ennaceur, Chairman of the Commission at its forty-ninth session, who made a statement. The Assistant Secretary-General for Human Rights also addressed the Commission at its 1st meeting.

3. In connection with the fiftieth anniversary of the Commission on Human Rights, the Commission heard a recording of the first session of the Commission on Human Rights, in 1946.

4. The Commission was given a demonstration of the CD ROM system.

### B. Attendance

5. The session was attended by representatives of States members of the Commission, by observers from other States Members of the United Nations, by observers from non-member States and by representatives of the specialized agencies, regional intergovernmental organizations, national liberation movements and non-governmental organizations. An attendance list is given in annex I to the present report.

### C. Election of officers

6. At its 1st meeting, on 31 January 1994, the Commission elected the following officers by acclamation:

| | |
|---|---|
| Chairman: | Mr. Peter Paul van Wulfften Palthe (Netherlands) |
| Vice-Chairmen: | Mr. Romulus Neagu (Romania) |
| | Mr. José Urrutia (Peru) |
| | Mr. Minoru Endo (Japan) |
| Rapporteur: | Mr. François-Xavier Ngoubeyou (Cameroon) |

### D. Agenda

7. Also at its 1st meeting, the Commission had before it the provisional agenda of the fiftieth session (E/CN.4/1994/1/Rev.1 and Add.1), drawn up, in accordance with rule 5 of the rules of procedure of the functional commissions of the Economic and Social Council, on the basis of the provisional agenda considered by

the Commission at its forty-ninth session in accordance with paragraph 3 of Economic and Social Council resolution 1894 (LVII).

8. The Commission had before it the following documents:

Letter dated 25 November 1993 from the Coordinator for the International Year of the Family addressed to the Assistant Secretary-General for Human Rights (E/CN.4/1994/89);

Letter dated 8 December 1993 from the Deputy Chairman of the Committee for Human Rights and Ethnic Relations of the Republic of Georgia, addressed to the Assistant Secretary-General for Human Rights (E/CN.4/1994/90).

9. At its 16th meeting, on 10 February 1994, the Commission adopted the provisional agenda as set out in document E/CN.4/1994/1/Rev.1, amended as follows:

(a) The subject of "International Year of the Family" was incorporated in agenda item 11 (e);

(b) The "Follow-up to the World Conference on Human Rights" was incorporated in agenda item 23;

(c) The following agenda items were renumbered accordingly.

10. The agenda, as amended, was adopted without a vote (E/CN.4/1994/1/Rev.2). For the text as adopted, see annex II to the present report.

## E. Organization of work

11. At its 2nd meeting, on 1 February 1994, the Commission considered the organization of work.

12. The Commission had before it the following documents:

Report on the situation of human rights in Guatemala, prepared by Ms. Mónica Pinto, Independent Expert, pursuant to Commission on Human Rights resolution 1993/88 (E/CN.4/1994/10);

Report of the Independent Expert, Mr. Pedro Nikken, on developments in the human rights situation in El Salvador, prepared pursuant to Commission on Human Rights resolution 1993/93 and Economic and Social Council decision 1993/284 (E/CN.4/1994/11).

13. Bearing in mind the priority of the items and the availability of the relevant documentation, the Commission accepted the recommendation of its officers that the following agenda items should be considered concurrently: items 4 and 9; items 5, 6 and 14; items 7, 8, 15 and 16; items 11 and 19; and items 13, 18 and 20. The Commission further agreed to consider the agenda items

in the following order: 4, 9; 5, 6, 14; 7, 8, 15, 16; 13, 18, 20; 17; 10; 11, 19; 12 (b); 12; 22, 23; 24; and 25, 26.

14. The Commission approved an additional meeting for the open-ended working group on the drafting of a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms and for the working group on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

15. At its 2nd meeting, on 1 February 1994, the Commission accepted the recommendation of its officers regarding limitation of the frequency and duration of statements. Members of the Commission were limited to one statement of 15 minutes or two statements of 10 minutes per item. Observers and non-governmental organizations were limited to one statement of 10 minutes per item. Observer States and liberation movements mentioned in reports submitted to the Commission were limited to one statement of 15 minutes or two statements of 10 minutes under the item concerned. It was also agreed that, with regard to rights of reply, the practice followed by the Third Committee of the General Assembly, namely a limitation to two replies, 5 minutes for the first and 3 minutes for the second, at the end of the day, would be observed.

16. At the same meeting, upon the recommendation of its officers, the Commission decided to invite a number of experts, special rapporteurs, special representatives and chairmen-rapporteurs of working groups to participate in the meetings at which their reports were to be considered.

17. For the text of the decision as adopted, see chapter II, section B, decision 1994/101.

18. With respect to its resolutions 1993/93, entitled "Human rights in El Salvador" and 1993/88, entitled "Assistance to Guatemala in the field of human rights", the Commission accepted the recommendation of its officers to postpone the decision as to the agenda item under which the questions would be considered.

19. At the 47th meeting, on 1 March 1994, the Independent Expert on the situation of human rights in Guatemala, Ms. Mónica Pinto, introduced her report (E/CN.4/1994/10).

20. At the same meeting, the Independent Expert on the situation of human rights in El Salvador, Mr. Pedro Nikken, introduced his report (E/CN.4/1994/11).

## F. Meetings, resolutions and documentation

21. Of the 69 meetings held by the Commission ... were extended to the equivalent of ... additional meetings.

22. The resolutions and decisions adopted by the Commission at the session are contained in chapter II of the present report. Draft resolutions and decisions for action by the Economic and Social Council are set out in chapter I.

23. Annex III contains estimates of the administrative and programme budget implications of resolutions and decisions of the Commission, prepared in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council.

24. Annex IV contains a list of documents issued for the fiftieth session of the Commission.

## G. Visits

25. At the 2nd meeting, on 1 February 1994, Mr. Yasser Arafat, Chairman of the Executive Committee of the Palestine Liberation Organization, addressed the Commission.

26. At the same meeting, Mrs. Mohtarma Benazir Bhutto, Prime Minister of Pakistan, addressed the Commission. At the 3rd meeting, statements in exercise of the right of reply were made by the representatives of India and Pakistan.

27. At the 3rd meeting, on 1 February 1994, Mr. Georges Papandreou, Deputy Minister for Foreign Affairs of Greece, addressed the Commission on behalf of the European Union.

28. At the 4th meeting, on 2 February 1994, Mr. Heikki Haavisto, Minister for Foreign Affairs of Finland, addressed the Commission.

29. At the 6th meeting, on 3 February 1994, Mr. Manmohan Singh, Minister of Finance of India, addressed the Commission.

30. At the 7th meeting, on 3 February 1994, Mrs. Lucette Michaux-Chevry, Minister Delegate for Humanitarian Activities and Human Rights of France, addressed the Commission.

31. At the 12th meeting, on 8 February 1994, Mr. D. Hogg, Minister of State for Foreign and Commonwealth Affairs of the United Kingdom of Great Britain and Northern Ireland, addressed the Commission.

32. At the 13th meeting, on 8 February 1994, Mr. M. Salaverria, Minister for Foreign Affairs of El Salvador, addressed the Commission.

33. At the 14th meeting, on 9 February 1994, Mr. A. Mock, Federal Minister for Foreign Affairs of Austria, addressed the Commission.

34. At the same meeting, Mrs. S. Ogata, United Nations High Commissioner for Refugees, addressed the Commission.

35. At the 16th meeting, on 10 February 1994, Mr. P.H. Kooijmans, Minister for Foreign Affairs of the Netherlands, addressed the Commission.

36. At the 17th meeting, on 10 February 1994, Mr. S. Daskalov, Minister for Foreign Affairs of Bulgaria, addressed the Commission.

37. At the same meeting, Mr. Shimon Peres, Minister for Foreign Affairs of Israel, addressed the Commission.

38. At the 18th meeting, on 11 February 1994, Mr. G. Chicoti, Deputy Minister for Foreign Affairs of Angola, addressed the Commission.

39. At the 20th meeting, on 14 February 1994, Mr. F. Vega Santa-Gadea, Minister for Justice of Peru, addressed the Commission.

40. At the 27th meeting, on 17 February 1994, Mr. M.S. Alsahaf, Minister for Foreign Affairs of Iraq, addressed the Commission.

41. At the same meeting, Mr. H. Algabid, Secretary-General of the Organization of the Islamic Conference, addressed the Commission.

42. At the 28th meeting, on 17 February 1994, Mr. Girma Wakjira, Chief Special Prosecutor of Ethiopia, addressed the Commission.

43. At the 29th meeting, on 17 February 1994, the representative of India made a statement in exercise of the right of reply or its equivalent.

44. At the 30th meeting, on 18 February 1994, Mr. Nguyen Ngoc Hien, Deputy Minister for Justice of Viet Nam, addressed the Commission.

45. At the 34th meeting, on 22 February 1994, Mrs. G. Mongella, Secretary-General of the Fourth World Conference of Women, addressed the Commission.

46. At the 38th meeting, on 24 February 1994, Mr. Mate Granic, Deputy Prime Minister and Minister for Foreign Affairs of the Republic of Croatia, addressed the Commission.

47. At the same meeting, Mr. Stojan Andov, President of the Assembly of the former Yugoslav Republic of Macedonia, addressed the Commission.

48. At the 43rd meeting, on 28 February 1994, Mr. Habib Ben Yahia, Minister for Foreign Affairs of Tunisia, addressed the Commission.

49. At the 46th meeting, on 1 March 1994, Mr. Gabariel Roric, Minister of State for Foreign Affairs of Sudan, addressed the Commission.

50. At the same meeting, Mr. Jean-Marie Ngendahayo, Minister of State of Burundi, addressed the Commission.

51. At the 49th meeting, on 2 March 1994, Mr. J.-B. Aristide, President of the Republic of Haiti, addressed the Commission.

52. At the 50th meeting, on 2 March 1994, Mr. Ieng Mouly, Minister for Information of Cambodia, addressed the Commission.

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GE.94-11366 (E)

## IV. QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

1. The Commission considered item 4 of the provisional agenda from its 3rd to 8th meetings, from 1 to 4 February 1994, concurrently with item 9 (see chap. IX), and at its 13th meeting, on 18 February 1994. 1/

2. The Commission had before it the following documents:

Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/48/96);

Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/48/278);

Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/48/557);

Note verbale dated 14 May 1993 from the Permanent Mission of the League of Arab States to the United Nations Office at Geneva, addressed to the Centre for Human Rights (E/CN.4/1994/9);

Report of the Secretary-General (E/CN.4/1994/12);

Note by the Secretary-General (E/CN.4/1994/13);

Report on the human rights situation in the Palestinian territories occupied since 1967, submitted by Mr. René Felber, Special Rapporteur, pursuant to Commission on Human Rights resolution 1993/2 A (E/CN.4/1994/14);

Note verbale dated 8 December 1993 from the Permanent Mission of the League of Arab States to the United Nations Office at Geneva, addressed to the Assistant Secretary-General for Human Rights (E/CN.4/1994/96);

Letter dated 14 January 1994 from the Permanent Delegation of the League of Arab States to the United Nations Office at Geneva, addressed to the Assistant Secretary-General for Human Rights (E/CN.4/1994/98).

3. At the 4th meeting, on 2 February 1994, Mr. René Felber, Special Rapporteur on the human rights situation in the territories occupied since 1967, submitted his report (E/CN.4/1994/14) to the Commission.

4. In the general debate on item 4, statements 3/ were made by the following members of the Commission: Australia (6th), Austria (3rd), Bangladesh (7th), Brazil (4th), Bulgaria (7th), Canada (4th), China (4th), Cuba (6th), Cyprus (6th), India (5th), Indonesia (5th), Japan (6th), Libyan Arab Jamahiriya (7th), Malaysia (6th), Mauritania (7th), Nigeria (7th), Pakistan (8th), Poland (6th), Republic of Korea (7th), Russian Federation (7th), Sudan (4th), Syrian Arab Republic (4th), United States of America (7th).

5. The Commission also heard statements by the observers for: Algeria (5th), Greece (on behalf of the European Union and its member States) (4th) Israel (7th), Morocco (4th), Norway (on behalf of Denmark, Finland, Iceland, Norway and Sweden) (6th), Oman (7th), Senegal (7th), Turkey (6th).

6. The Commission also heard statements by the representatives of the following non-governmental organizations: Amnesty International (3rd), Centre Europe-Tiers Monde (5th), International Commission of Jurists (4th), International Confederation of Free Trade Unions (3rd), International League for the Rights and Liberation of Peoples (5th), International Fellowship of Reconciliation (3rd), World Organization against Torture (3rd), Pax Christi (6th), World Islamic Call Society (7th).

7. At its 30th meeting, the Commission took up consideration of the draft resolutions submitted under agenda item 4.

8. The representative of Greece introduced a draft resolution (E/CN.4/1994/L.3) sponsored by Belgium*, Denmark*, France, Germany, Greece*, Ireland*, Italy, Luxembourg*, Netherlands, Portugal*, Spain*, and United Kingdom of Great Britain and Northern Ireland. Australia, Finland, Iceland*, Japan, Leichenstein*, Malta*, New Zealand*, Norway*, Sweden* and Switzerland* subsequently joined the sponsors.

9. The representative of the United States of America made a statement on the draft resolution.

10. At the request of the representative of the United States of America, a roll-call vote was taken on the draft resolution.

11. The draft resolution was adopted by 49 votes to 1, with 1 abstention. The voting was as follows:

In favour: Angola, Australia, Austria, Bangladesh, Barbados, Brazil, Bulgaria, Cameroon, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Ecuador, Finland, France, Gabon, Germany, Hungary, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Kenya, Lesotho, Malawi, Malaysia, Mauritania, Mexico, Netherlands, Nigeria, Pakistan, Peru, Poland, Republic of Korea, Romania, Russian Federation, Sri Lanka, Sudan, Syrian Arab Republic, Togo, Tunisia, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Against: United States of America.

Abstaining: Libyan Arab Jamahiriya.

12. Statements in explanation of vote after the vote were made by the representatives of the Libyan Arab Jamahiriya and the Syrian Arab Republic.

13. For the text of the resolution, see chapter II, section A (resolution 1994/1).

14. At the same meeting, the representative of the Syrian Arab Republic introduced a draft resolution (E/CN.4/1994/L.4) sponsored by Afghanistan*, Algeria*, Bahrain*, Cuba, India, Indonesia, Iran (Islamic Republic of), Iraq*, Kuwait*, Lebanon*, Libyan Arab Jamahiriya, Madagascar*, Malaysia, Mauritania, Morocco*, Oman*, Pakistan, Qatar*, Saudi Arabia*, Senegal*, Somalia*, Sri Lanka, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates*, Viet Nam* and Yemen*.

15. Statements in explanation of vote before the vote were made by the representatives of Cyprus and the United States of America.

16. At the request of the representative of the United States of America, a roll-call vote was taken on the draft resolution.

17. The draft resolution was adopted by 25 votes to 1, with 25 abstentions.

In favour: Angola, Bangladesh, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, India, Indonesia, Iran (Islamic Republic of),

Lesotho, Libyan Arab Jamahiriya, Malaysia, Mauritania, Mexico, Nigeria, Pakistan, Republic of Korea, Sri Lanka, Sudan, Syrian Arab Republic, Tunisia, Venezuela.

Against: United States of America.

Abstaining: Australia, Austria, Barbados, Bulgaria, Cameroon, Canada, Côte d'Ivoire, Ecuador, Finland, France, Gabon, Germany, Hungary, Italy, Japan, Kenya, Malawi, Netherlands, Peru, Poland, Romania, Russian Federation, Togo, United Kingdom of Great Britain and Northern Ireland, Uruguay.

18. Statements in explanation of vote after the vote were made by the representatives of Colombia, Lesotho, Mexico, Nigeria, the Republic of Korea and the Russian Federation.

19. For the text of the resolution, see chapter II, section A (resolution 1994/2).

20. At the same meeting, the representative of Sudan introduced two draft resolutions, A and B (E/CN.4/1994/L.5), sponsored by Algeria*, Bahrain*, China, Cuba, Indonesia, Jordan*, Malaysia, Mauritania, Morocco*, Oman*, Pakistan, Qatar*, Saudi Arabia*, Senegal*, Somalia*, Sri Lanka, Sudan, Tunisia, United Arab Emirates* and Yemen*. India subsequently joined the sponsors.

21. A statement in explanation of vote before the vote was made by the representative of the United States of America.

22. At the request of the representative of the United States of America, a roll-call vote was taken on draft resolution A.

23. Draft resolution A was adopted by 26 votes to 3, with 23 abstentions. The voting was as follows:

In favour: Angola, Bangladesh, Brazil, Cameroon, Chile, China, Colombia, Cuba, Cyprus, Gabon, India, Indonesia, Iran (Islamic Republic of), Lesotho, Libyan Arab Jamahiriya, Malaysia, Mauritania, Mexico, Nigeria, Pakistan, Republic of Korea, Sri Lanka, Sudan, Syrian Arab Republic, Tunisia, Venezuela.

Against: Bulgaria, Russian Federation, United States of America.

Abstaining: Australia, Austria, Barbados, Canada, Costa Rica, Côte d'Ivoire, Ecuador, Finland, France, Germany, Hungary, Italy, Japan, Kenya, Malawi, Mauritius, Netherlands, Peru, Poland, Romania, Togo, United Kingdom of Great Britain and Northern Ireland, Uruguay.

24. For the text as adopted, see chapter II, section A (resolution 1994/3 A).

25. At the request of the representative of the United States of America, a roll-call vote was taken on draft resolution B.

26. Draft resolution B was adopted by 26 votes to 1, with 25 abstentions. The voting was as follows:

In favour: Angola, Bangladesh, Brazil, Cameroon, Chile, China, Colombia, Cuba, Cyprus, Gabon, India, Indonesia, Lesotho, Libyan Arab Jamahiriya, Iran (Islamic Republic of), Malaysia, Mauritania, Mexico, Nigeria, Pakistan, Republic of Korea, Sri Lanka, Sudan, Syrian Arab Republic, Tunisia, Venezuela.

Against: United States of America.

Abstaining: Australia, Austria, Barbados, Bulgaria, Canada, Costa Rica, Côte d'Ivoire, Ecuador, Finland, France, Germany, Hungary, Italy, Japan, Kenya, Malawi, Mauritius, Netherlands, Peru, Poland, Romania, Russian Federation, Togo, United Kingdom of Great Britain and Northern Ireland, Uruguay.

27. Statements in explanation of vote after the vote were made by the representatives of Bulgaria, Colombia, the Islamic Republic of Iran, Japan, Libya, the Netherlands, the Republic of Korea and the Syrian Arab Republic.

28. For the text as adopted, see chapter II, section A (resolution 1994/3 B).

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GE.94-11372 (E)

## V. VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS

1. The Commission considered item 5 of the provisional agenda concurrently with items 6 and 14 (see chaps. VI and XIV) at its 8th to 12th meetings, from 4 to 8 February, and at its 31st meeting, on 18 February 1994. 1/

2. The Commission had before it the following documents:

Situation of human rights in South Africa: Note by the Secretary-General (A/48/525);

Interim report of the Ad Hoc Working Group of Experts on southern Africa prepared in accordance with Commission on Human Rights resolution 1993/9 (E/CN.4/1994/15).

3. At its 8th meeting, on 4 February 1994, the Chairman-Rapporteur of the Ad Hoc Working Group of Experts on southern Africa, Mr. Mijuin Leliel Balanda, introduced the Ad Hoc Group's interim report.

4. In the general debate on item 5, statements 3/ were made by the following members of the Commission: Australia (11th), Austria (8th), Bangladesh (11th), Brazil (8th), Bulgaria (11th), Canada (8th), Chile (10th), China (10th), Cuba (11th), Cyprus (11th), Finland (on behalf of Denmark, Finland, Iceland, Norway and Sweden) (11th), Hungary (9th), India (11th), Indonesia (10th), Japan (10th), Kenya (11th), Malaysia (10th), Malawi (11th), Mauritania (9th), Nigeria (9th), Pakistan (11th), Republic of Korea (11th), Russian Federation (10th), Syrian Arab Republic (11th), Sudan (9th), Tunisia (on behalf of the African Group) (9th), United States of America (11th), Venezuela (11th).

5. The Commission also heard statements by the observers for: Algeria (11th), Egypt (12th), Greece (on behalf of the European Union and its member States) (8th), Morocco (10th), Senegal (11th), Tanzania (11th), Zimbabwe (10th).

6. The observer for the African National Congress (12th) and the observer for the Pan Africanist Congress of Azania (8th) made statements.

7. The Commission also heard a statement by the observer for the United Nations Volunteers programme (10th).

8. The Commission also heard statements by representatives of the following non-governmental organizations: African Association of Education for Development

(12th), Amnesty International (9th), International Commission of Jurists (10th), International Confederation of Free Trade Unions (9th).

9. At the 12th meeting, the Chairman-Rapporteur of the Ad Hoc Working Group of Experts on southern Africa, Mr. Mijuin Leliel Balanda, presented its final comments.

10. At its 31st meeting, the Commission took up consideration of the draft resolution submitted under agenda item 5.

11. On 14 February 1994, a draft resolution (E/CN.4/1994/L.12) had been submitted by the following countries: Algeria*, Bangladesh, Barbados, Cameroon, China, Cuba, Democratic People's Republic of Korea*, Ethiopia*, Gabon, Ghana*, Indonesia, Iran (Islamic Republic of), Iraq*, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar*, Malawi, Malaysia, Mauritania, Myanmar*, Nigeria, Rwanda*, Senegal*, Sudan, Syrian Arab Republic, Togo, Tunisia, United Republic of Tanzania*, Zambia* and Zimbabwe*. The draft resolution read as follows:

"The Commission on Human Rights,

Recalling its resolutions 1989/5 of 23 February 1989, 1990/26 of 27 February 1990, 1991/21 of 1 March 1991, 1992/19 of 28 February 1992 and 1993/9 of 26 February 1993,

Recalling the Declaration on Apartheid and its Destructive Consequences in Southern Africa, adopted by the General Assembly in resolution S-16/1 of 14 December 1989, and the need for the full implementation of its provisions,

Recalling also the report of the Special Committee against Apartheid (A/48/22), the fourth report of the Secretary-General on progress made in the implementation of the Declaration (A/48/691), as well as the reports of the Secretary-General on the coordinated approach by the United Nations system on the questions relating to South Africa (A/48/467 and Add.1) and on the concerted and effective measures aimed at eradicating apartheid (A/46/499),

Having examined the interim report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1994/15),

Welcoming the positive political developments that have taken place within the framework of the resumed multi-party negotiations providing for

the holding of elections on 27 April 1994 and the establishment of the Transitional Executive Council, the finalization of the Constitution

for the Transitional Period and the subsequent measures to create the Independent Electoral Commission and the Independent Broadcasting Authority,

Also welcoming the endorsement by the parties in the multi-party negotiations of the Constitution for the Transitional Period and the Electoral Bill,

Noting with satisfaction that in the Constitution for the Transitional Period cognizance has been taken of the large number of international instruments in respect of human rights,

Noting that while positive measures have been taken by the Government of South Africa, including the repeal of some major apartheid laws and the revision of the security legislation, important obstacles to the achievement of a climate conducive to the exercise of free political activity still remain,

Noting also that while positive steps have been taken by the Government of South Africa towards changing the racial education system, many obstacles still persist,

Gravely concerned that persistent violence continues to threaten and to undermine the process of peaceful change through peaceful elections due to take place on 27 April 1994,

Stressing the need to strengthen and reinforce the mechanisms set up in South Africa under the National Peace Accord, and emphasizing the need for all parties to cooperate in combating violence, exercising restraint and taking part in the forthcoming elections,

Welcoming the adoption of part I, paragraph 16 and part II, paragraph 19 of the Vienna Declaration and Programme of Action by the World Conference on Human Rights in June 1993 in which the World Conference welcomed the progress made in dismantling apartheid and deplored the continuing acts of violence aimed at undermining the quest for a peaceful dismantling of apartheid,

Welcoming also the enhanced attention given by the international community to the question of violence in South Africa and especially the deployment in South Africa of observers from the United Nations, the Organization of African Unity, the Commonwealth and the European Union to

further the purposes of the National Peace Accord and the forthcoming elections,

Welcoming the positive development of granting citizenship to the inhabitants of the so-called "homelands", while noting that reforms aimed at incorporating them in the legal, political and administrative framework of South Africa have yet to be fully implemented,

Concerned that detention without charge remains possible in law, for example under sections 29 and 50 of the Internal Security Act, as well as under the Public Safety Act,

Stressing the importance of the powers exercised by the Minister of Justice and Order to declare unrest and to impose emergency regulations being subjected to control by the Transitional Executive Council,

Deeply concerned that certain right-wing parties and/or the Freedom Alliance and some territories have threatened to boycott the forthcoming elections,

Gravely disturbed at the socio-economic inequalities in South Africa and at the accumulated negative impact of apartheid on the social, economic and cultural rights of the majority of the people of South Africa, with particularly harmful effects on women and children,

Welcoming the successful negotiations between the Government of South Africa and the main parties concerned aimed at working out modalities for a non-racial, democratic constitution and the creation of the Transitional Executive Council,

Recognizing the important role the international community and the Centre for Human Rights could play in assisting the new Government and the people of South Africa in overcoming the legacy of apartheid and promoting respect for all human rights, including civil, cultural, economic, political and social rights,

1. Takes note of the interim report of the Ad Hoc Working Group of Experts on southern Africa, and commends the Working Group for the updated documentation of the situation of human rights in South Africa;

2. Reaffirms its support for the legitimate struggle of the South African people for the total eradication of apartheid through peaceful

means and their right to establish a non-racial, democratic system which is consistent with the International Bill of Human Rights;

3. Calls upon the South African authorities to exercise effectively their responsibility to maintain law and order, to stop the violence, to prosecute its perpetrators and to protect all citizens, irrespective of their political affiliation;

4. Also calls upon all parties to refrain from further acts of violence;

5. Strongly urges the Government of South Africa to implement fully the recommendations of the Commission of Enquiry into Public Violence and Intimidation (the Goldstone Commission) and to cooperate with that Commission with a view to carrying out further investigations into the functioning and operation of the security forces and other existing armed units;

6. Commends the Secretary-General for the measures taken to address areas of concern relating to the elections scheduled for 27 April 1994, and invites him to accelerate contingency planning for the role of the United Nations;

7. Supports the recommendations of the Secretary-General for the deployment of observers in South Africa to further the purposes of the National Peace Accord, and urges him to continue to address all the areas of concern noted in his reports which fall within the purview of the United Nations;

8. Urges all parties urgently to implement the agreement to grant a general unconditional amnesty to all those sentenced for anti-apartheid activities which are regarded as politically motivated;

9. Appeals to the international community to assist and enhance the role of humanitarian and human rights groups in extending assistance to victims of apartheid and released political prisoners and in monitoring the situation of human rights in South Africa;

10. Urges the South African authorities to expedite the legal and administrative measures to abolish speedily and unconditionally all the remaining "homelands" and the "bantustan system" and reincorporate them in South Africa, and to ensure that the populations in those territories can

freely participate in the elections and that all political parties will be able to conduct election campaigns without fear of intimidation;

11. Also urges the South African authorities to ensure that no parties are permitted to disrupt the democratic process leading to the elections scheduled for 27 April 1994 and to ensure that an adequate number of electoral booths are installed throughout the territory of South Africa;

12. Further urges the South African authorities to address seriously and urgently the problem of landlessness and the gross inequalities in land ownership in order to create an atmosphere of lasting stability in South Africa;

13. Urges once again the South African authorities to repeal the remaining discriminatory apartheid laws, introduce the necessary legal and administrative measures to correct entrenched socio-economic inequalities and implement and enforce without delay that legislation in the areas of education, health, housing, social welfare and domestic and farm work;

14. Invites the new Government of South Africa to adopt and ratify the important international human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in addition to those it has already signed;

15. Calls for the replacement of the present racial education system with a non-racial education system;

16. Calls upon the international community to support through appropriate measures the fragile and critical process of transition under way in South Africa;

17. Reiterates the call to all Governments to observe fully the mandatory arms embargo and the request to the Security Council to continue to monitor effectively the implementation of the embargo, as decided in Security Council resolutions 418 (1977) of 4 November 1977, 558 (1984) of 13 December 1984 and 591 (1986) of 28 November 1986;

18. Urges all parties in South Africa, including those which did not participate fully in the multi-party negotiations, to respect agreements

reached during the talks, to recommit themselves to democratic principles, to take part in the elections and to resolve outstanding issues by peaceful means only;

19. Strongly urges the international community, following the adoption by the General Assembly of resolution 48/1 on 8 October 1993, to respond generously and positively to the appeal by the people of South Africa for assistance in the economic reconstruction of their country and to ensure that the new South Africa begins its existence on a firm economic basis;

20. Supports the efforts of the Secretary-General, together with all the parties concerned, to implement effectively plans for the role of the United Nations in the election process in coordination with the observer missions of the Organization of African Unity, the Commonwealth, the European Union and observers from non-governmental organizations;

21. Urges the Government of South Africa, together with all parties, to create a fair and impartial judiciary and to rehabilitate, develop and train a new police force whose primary role would be to maintain law and order;

22. Calls upon the Centre for Human Rights to respond at the appropriate time, as guided by the Secretary-General, to the needs of the changing situation in South Africa during the period of transition, in accordance with General Assembly resolutions 47/116 A of 18 December 1992 and 48/159 A of 20 December 1993;

23. Calls for the definitive abolition of sections 29 and 50 of the Internal Security Act and other remaining repressive regulations such as the Public Safety Act of 1953 which are inconsistent with the new democratic society of South Africa;

24. Requests the Centre for Human Rights to place at the disposal of the new Government and the people of South Africa its experience in advisory services to assist in the preparation of a programme of technical cooperation in the field of human rights aimed at promoting respect for all human rights, overcoming the legacy of apartheid, raising the capacity of members of the disadvantaged communities, with particular attention to women

and children, and strengthening democratic institutions, especially through education, training and information;

25. Requests the bodies and agencies of the United Nations system to contribute to the preparation and implementation of a programme of technical cooperation in the field of human rights and social and economic development, including the programme of the International Labour Organisation, in order to change the labour laws so that they are in conformity with the international labour standards;

26. Requests the Ad Hoc Working Group of Experts to continue, in cooperation with the Special Committee against Apartheid and other investigatory and monitoring bodies, to examine the situation regarding the violations of human rights in South Africa including, in particular, reports of torture, ill-treatment and deaths of detainees, infringements of trade-union rights, as well as the situation of women and children;

27. Renews its request to the Government of South Africa to allow the Ad Hoc Working Group of Experts to visit South Africa to gather information from individuals and organizations in order to ascertain the situation of human rights in South Africa, in such a manner that:

(a) The Ad Hoc Working Group of Experts would be guaranteed free and confidential access to any individual, organization, prisoner or ex-prisoner, detainee or ex-detainee;

(b) The Government of South Africa would provide a firm undertaking that any person or organization providing evidence would be granted immunity from any State action as a result thereof;

28. Requests the Ad Hoc Working Group of Experts to submit a preliminary report to the General Assembly at its forty-ninth session and its final report to the Commission on Human Rights at its fifty-first session."

12. At its 31st meeting, the representative of Tanzania introduced a revised draft resolution (E/CN.4/1994/L.12/Rev.1) with the same sponsors as draft resolution E/CN.4/1994/L.12. Subsequently, Australia, Finland, Ireland*,

Iceland*, Norway* and Sweden* joined the sponsors of the revised draft resolution.

13. The representative of Tanzania orally revised the draft resolution as follows:

In the second line of the sixteenth preambular paragraph, the word "Justice" was to be replaced by "Law".

14. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications 2/ of the draft resolution.

15. The draft resolution was adopted without a vote.

16. For the text as adopted, see chapter II, section A (resolution 1994/10).

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Agenda item 26

# DRAFT REPORT OF THE COMMISSION

Rapporteur: Mr. François-Xavier NGOUBEYOU

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## VI. ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME IN SOUTH AFRICA

1. The Commission considered item 6 of the provisional agenda concurrently with items 5 and 14 (see chaps. V and XIV), from its 8th to 12th meetings from 4 to 8 February, and at its 30th meeting on 18 February 1994.

2. The Commission had before it the following documents:

Note by the Secretary-General (E/CN.4/1994/16);

Preliminary report on monitoring the transition to democracy in South Africa submitted by Mrs. Judith Sefi Attah, Special Rapporteur, pursuant to Sub-Commission resolution 1992/6 (E/CN.4/Sub.2/1993/11 and Add.1).

3. At its 8th meeting on 4 February 1994, Mrs. Judith Sefi Attah, Special Rapporteur, introduced her preliminary report on monitoring the transition to democracy in South Africa.

4. In the general debate on item 6, statements were made by the following members of the Commission: Austria (8th meeting), Bangladesh (11th), Brazil (8th), Bulgaria (11th), Chile (10th), China (10th), Cyprus (11th), Cuba (11th), Russian Federation (10th), Finland (on behalf of Denmark, Finland, Iceland, Norway and Sweden) (11th), Hungary (9th), India (11th), Indonesia (10th), Japan (10th), Malawi (11th), Malaysia (10th), Mauritania (9th), Nigeria (9th), Syrian Arab Republic (11th), Republic of Korea (11th), Sudan (9th), Tunisia (on behalf of the African Group) (9th), Venezuela (11th).

5. The Commission also heard statements by the observers for: Algeria (11th), Egypt (12th), Morocco (10th).

6. The observer for the African National Congress (12th) and the observer for the Pan Africanist Congress of Azania (8th) made statements.

7. The Commission heard a statement by the observer for the United Nations Volunteers (10th).

8. The Commission also heard statements by representatives of the following non-governmental organizations: African Association of Education for Development (12th), International Confederation of Free Trade Unions (9th), International Lesbian and Gay Association (10th), Service, Peace and Justice in Latin America (10th).

9. At its 30th meeting, the Commission took up consideration of the draft resolution submitted under item 6.

10. The representative of Nigeria introduced a draft resolution (E/CN.4/1994/L.15) which had been sponsored by the following countries: Algeria*, Angola, Burundi*, Cameroon, China, Costa Rica, Cuba, Ethiopia*, Iran (Islamic Republic of), Kenya, Lesotho, Madagascar*, Malawi, Mauritania, Nigeria, Senegal*, Sudan, Tunisia, Zambia and Zimbabwe*. Subsequently, El Salvador*, Myanmar* and Viet Nam* joined the sponsors of the draft resolution.

11. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the draft resolution's administrative implications and programme budget implications.

12. The draft resolution was adopted without a vote.

13. The text adopted is contained in chapter II, section A (resolution 1994/8).

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# DRAFT REPORT OF THE COMMISSION

Rapporteur: Mr. François-Xavier NGOUBEYOU

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* Documents E/CN.4/1994/L.10 and addenda contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council, are contained in documents E/CN.4/1994/L.11 and addenda.

VII. QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING: PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT

(a) POPULAR PARTICIPATION IN ITS VARIOUS FORMS AS AN IMPORTANT FACTOR IN DEVELOPMENT AND IN THE FULL REALIZATION OF ALL HUMAN RIGHTS

1. The Commission considered item 7 of the provisional agenda concurrently with items 8, 17 and 18 (see chaps. VIII, XVII and XVIII) at its 12th to 19th meetings, from 8 to 11 February, at its 41st and 42nd meetings, on 25 February, at its 46th meeting, on 1 March, and at its 57th meeting, on 4 March 1994.

2. The Commission had before it the following documents:

Comprehensive report of the Secretary-General, prepared in pursuance of Commission on Human Rights resolution 1993/12 (E/CN.4/1994/17 and Add.1);

Note by the Secretary-General on human rights and extreme poverty (E/CN.4/1994/18);

Completed final report prepared by Mr. Luis Valencia Rodríguez, independent expert, on the right of everyone to own property alone as well as in association with others (E/CN.4/1994/19 and Add.1);

Analytical report compiled by the Secretary-General pursuant to Commission resolution 1993/77 on forced evictions (E/CN.4/1994/20);

Note by the Secretary-General (E/CN.4/1994/100);

Report of the Secretariat (A/CONF.157/PC/73);

Written statement submitted by the Centre Europe-Tiers Monde, a non-governmental organization on the Roster (E/CN.4/1994/NGO/16).

3. At its 12th meeting, on 8 February 1994, the independent expert on the right to property, Mr. Luis Valencia Rodríguez, introduced his final report (E/CN.4/1994/19 and Add.1) to the Commission.

4. In the general debate on item 7, statements were made by the following members of the Commission: Angola (16th), Australia (16th), Austria (17th), Brazil (on behalf of the Rio Group) (16th), Canada (13th), Chile (13th),

Colombia (13th), Costa Rica (16th), Cuba (13th), Ecuador (16th), Finland (17th), Kenya (15th), Libyan Arab Jamahiriya (14th), Malawi (16th), Malaysia (14th), Mauritania (15th), Mexico (16th), Netherlands (14th), Nigeria (17th), Poland (16th), Russian Federation (14th), Sri Lanka (16th), Sudan (13th), Ukraine (15th), United States of America (16th), Venezuela (15th).

5. Statements were also made by the observers for: Algeria (17th), Greece (on behalf of the European Union and its members) (17th), Holy See (17th), Honduras (17th), Iraq (18th), Nepal (18th), Philippines (17th).

6. The Commission also heard statements by representatives of the following non-governmental organizations: American Association of Jurists (13th), Centre Europe-Tiers Monde (14th), Commission for the Defence of Human Rights in Central America (19th), Habitat International Coalition (19th), International Association against Torture (19th), International Commission of Jurists (18th), International Confederation of Free Trade Unions (13th), International Fellowship of Reconciliation (13th), International Humanist and Ethical Union (13th), International Indian Treaty Council (19th), International Movement ATD Fourth World (15th), Movement against Racism and for Friendship among Peoples (14th), Women's International League for Peace and Freedom (18th), World Alliance of Reformed Churches (18th), World Confederation of Labour (15th), World Federation of Trade Unions (18th), World Organization against Torture (18th), World University Service (18th).

7. Statements in exercise of the right of reply or its equivalent were made by the representatives of India (19th), Nicaragua (19th) and the Philippines (19th).

8. At its 41st meeting, the Commission took up consideration of the draft resolutions submitted under agenda item 7.

9. The representative of Cuba introduced draft resolution E/CN.4/1994/L.17, sponsored by: Angola, Costa Rica, Cuba, the Democratic People's Republic of Korea*, Guatemala*, Iran (Islamic Republic of), Jordan*, the Libyan Arab Jamahiriya, Madagascar*, Mexico, Nigeria, the Philippines*, Sri Lanka, the Sudan,

the Syrian Arab Republic and Venezuela. The sponsors were subsequently joined by Cameroon, Colombia, Côte d'Ivoire, Ethiopia*, Iraq* and Viet Nam*.

10. The representative of Cuba made the following oral amendments to the draft resolution:

(a) In the Spanish text of the sixth preambular paragraph, the words "al ser humano" should be replaced by "la persona humana" and the word "humanos" should be added after the word "derechos";

(b) In operative paragraph 5, the words "that the policies being imposed to ensure debt payment by developing countries have and how they hinder the effective enjoyment of all human rights by the people of those countries" should be replaced by the following text: "of the policies adopted to face situations of external debt on the effective enjoyment of economic, social and cultural rights";

(c) Delete operative paragraph 6, which read:

"Requests the Secretary-General, in accordance with the commitment derived from part I, paragraph 12, of the Vienna Declaration and Programme of Action, to request the Governments of creditor countries to provide detailed information on the actions being taken to alleviate the debt burden of developing countries, and to submit to the Commission on Human Rights at its fifty-first session a compilation of the information requested";

(d) In operative paragraph 7, the words "as well as" after the word "Government" should be deleted;

(e) In the Spanish text of the same paragraph, the words "asi como organizaciones intergubernamentales y no gubernamentales" should be inserted after the words "organismos especializados". The (incomplete) French text of this paragraph would be amended accordingly.

11. At the request of the representative of the United States of America, a roll-call vote was taken on the draft resolution.

12. The draft resolution was adopted by 31 votes to 12, with 8 abstentions. The voting was as follows:

In favour: Angola, Bangladesh, Barbados, Brazil, Cameroon, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Ecuador, Gabon, India, Indonesia, Iran (Islamic Republic of), Kenya, Lesotho,

Libyan Arab Jamahiriya, Malawi, Malaysia, Mauritania, Mexico, Nigeria, Pakistan, Sri Lanka, Sudan, Syrian Arab Republic, Togo, Tunisia, Venezuela.

Against: Australia, Austria, Canada, Finland, Germany, Hungary, Italy, Japan, Netherlands, Poland, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Bulgaria, Cyprus, France, Peru, Republic of Korea, Romania, Russian Federation, Uruguay.

13. Statements in explanation of vote after the vote were made by the representatives of Japan, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

14. For the text as adopted, see chapter II, section A, resolution 1994/11.

15. At the 41st meeting, the representative of Portugal introduced draft resolution E/CN.4/1994/L.18, sponsored by Australia, Austria, Belgium*, Bulgaria, Chile, Costa Rica, the Czech Republic, Denmark*, Finland, Germany, Hungary, Latvia*, Madagascar, Peru, Poland, Portugal*, the Russian Federation, Slovakia* and the United Kingdom of Great Britain and Northern Ireland. The sponsors were subsequently joined by France, Greece*, Hungary, the Netherlands, Norway*, the Philippines*, Romania, Senegal*, Spain*, Sweden*, Switzerland*, Tunisia and Ukraine*.

16. The representative of Portugal made the following oral amendment to the draft resolution: in operative paragraph 12, the words "Takes note with interest" should be replaced by the word "Endorses".

17. The representative of the Islamic Republic of Iran proposed the following amendments to the draft resolution:

(a) In the English text of the ninth preambular paragraph, the words "and nations" should be inserted after the words "the needs of individuals";

(b) In the English text of operative paragraph 2, the words "strictly within the framework" should be inserted after the words "the relevant issues".

18. The representatives of Brazil, China, India, Nigeria, Portugal and the Syrian Arab Republic made statements in connection with the draft resolution and the proposed amendments.

19. The Commission decided to postpone the debate on the draft resolution.

20. At its 42nd meeting, the Commission resumed consideration of draft resolution E/CN.4/1994/L.18.

21. The representative of Portugal made the following oral amendments to the draft resolution:

(a) In the English text of the ninth preambular paragraph, the word "individuals" should be replaced by the word "people";

(b) In the English text of operative paragraph 2, the words "within the framework" should be inserted after the words "the relevant issues";

(c) In operative paragraph 7, the words "recognizes the importance of using indicators as a means of measuring or assessing progress in the realization of human rights, as referred to in the Vienna Declaration and Programme of Action" should become new paragraph 7;

(d) In the same operative paragraph 7, the first part of the paragraph ending with the words "January 1993" should become new paragraph 8;

(e) The subsequent paragraphs should be renumbered accordingly;

(f) In new operative paragraph 8, the words "with interest" after the word "Notes" should be deleted;

(g) In new operative paragraph 9, the words "as well as representatives of States" should be inserted after the words "non-governmental organizations";

(h) In the same operative paragraph 9, the words "as well as the nature of States parties' obligations" should be deleted.

22. The representative of Malaysia proposed that the following words should be deleted from the third preambular paragraph: "and that the promotion and protection of one category of rights should never exempt or excuse States from the promotion and protection of the other rights".

23. Statements in connection with the draft resolution as revised were made by the representatives of Malaysia and Portugal.

24. The Commission decided to postpone the debate on the draft resolution.

25. At its 46th meeting, the Commission resumed consideration of draft resolution E/CN.4/1994/L.18.

26. Statements in connection with the draft resolution and the proposed amendments were made by the representatives of Brazil, Malaysia and Portugal.

27. A statement in explanation of vote before the vote was made by the representative of the United States of America.

28. At the request of the representative of the United States of America, a roll-call vote was taken on the amendment proposed by the representative of Malaysia.

29. The amendment was rejected by 39 votes to 1, with 13 abstentions. The voting was as follows:

In favour: Malaysia.

Against: Angola, Australia, Austria, Bangladesh, Barbados, Brazil, Bulgaria, Cameroon, Canada, Chile, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Ecuador, Finland, France, Gabon, Germany, Guinea-Bissau, Hungary, Italy, Japan, Mauritania, Mauritius, Mexico, Netherlands, Nigeria, Peru, Poland, Republic of Korea, Romania, Russian Federation, Togo, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Abstaining: China, India, Indonesia, Iran (Islamic Republic of), Kenya, Lesotho, Libyan Arab Jamahiriya, Malawi, Pakistan, Sri Lanka, Sudan, Syrian Arab Republic, Tunisia.

30. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications of the draft resolution.

31. At the request of the representative of Malaysia, a roll-call vote was taken on the draft resolution.

32. The draft resolution was adopted by 52 votes to none, with 1 abstention. The voting was as follows:

In favour: Angola, Australia, Austria, Bangladesh, Barbados, Brazil, Bulgaria, Cameroon, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Ecuador, Finland, France, Gabon, Germany, Guinea-Bissau, Hungary, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Kenya, Lesotho, Libyan Arab Jamahiriya, Malawi, Mauritania,

Mauritius, Mexico, Nigeria, Pakistan, Peru, Poland, Netherlands, Republic of Korea, Romania, Russian Federation, Sri Lanka, Sudan, Syrian Arab Republic, Togo, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: None.

Abstaining: Malaysia.

33. At the 57th meeting, a statement in explanation of vote after the vote was made by the representative of Japan.

34. For the text as adopted, see chapter II, section A, resolution 1994/20.

35. In view of the adoption of resolution 1994/20 (see paras. 15-34), the Commission took no action on draft decision 9, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1994/2-E/CN.4/Sub.2/1993/45, chap. I, sect. B).

36. At the 41st meeting, the representative of France introduced draft resolution E/CN.4/1994/L.20, sponsored by Argentina*, Australia, Austria, Bangladesh, Belgium*, Brazil, Burundi, Chile, Colombia, Costa Rica, Cyprus, the Czech Republic, Denmark*, France, Germany, Greece*, Guatemala*, Hungary, Italy, Kenya, Lesotho, Madagascar*, Mauritius, Mexico, Peru, the Philippines*, Poland, Portugal*, Romania, the Russian Federation, Rwanda*, Senegal*, Slovakia*, Spain*, Switzerland* and Venezuela. The sponsors were subsequently joined by Cameroon, Côte d'Ivoire, Ireland*, the Netherlands, Nigeria, Tunisia, Uruguay and Zimbabwe*.

37. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications of the draft resolution.

38. The draft resolution was adopted without a vote.

39. At the 57th meeting, a statement in explanation of his delegation's position was made by the representative of the United States of America.

40. For the text as adopted, see chapter II, section A, resolution 1994/12.

41. In view of the adoption of resolution 1994/12 (see paras. 36-40), the Commission took no action on draft resolution III recommended by the

Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1994/2-E/CN.4/1993/45, chap. I, sect. A).

42. At the 41st meeting, the representative of the United States of America introduced draft resolution E/CN.4/1994/L.21, sponsored by the Czech Republic*, Greece*, Japan, Romania, the Russian Federation, Slovakia*, Switzerland*, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The sponsors were subsequently joined by Argentina*, Costa Rica, Cyprus, Ecuador, Germany, the Philippines* and Poland.

43. A statement in explanation of his delegation's position was made by the representative of Cuba.

44. The draft resolution was adopted without a vote.

45. For the text as adopted, see chapter II, section A, resolution 1994/13.

46. At the same meeting, the representative of Australia introduced draft resolution E/CN.4/1994/L.22, sponsored by Australia, Austria, Costa Rica, Denmark*, Ireland*, Norway* and Peru. The sponsors were subsequently joined by Argentina*, France, Germany, Hungary, the Netherlands, Portugal*, Slovakia*, Tunisia, Uruguay and Venezuela.

47. The representative of Cuba proposed that the draft resolution should be amended in the first preambular paragraph by inserting the word "interdependent" after "indivisible".

48. The representative of the Syrian Arab Republic proposed that the draft resolution should be amended in the ninth preambular paragraph by replacing the words "can contribute" by "are contributing".

49. The representative of the United Kingdom of Great Britain and Northern Ireland proposed that the draft resolution should be amended in the first preambular paragraph by inserting the word "universal" before "indivisible".

50. The representative of Malaysia proposed that the draft resolution should be amended as follows:

(a) In the ninth preambular paragraph, the words "can contribute" should be replaced by "could contribute";

(b) In the first preambular paragraph, the words "and that the promotion and protection of one category of rights does not exempt or excuse States from the duty of promoting and protecting other rights" should be deleted.

51. Statements in connection with the draft resolution and the proposed amendments were made by the representatives of Australia and Malaysia.

52. The Commission decided to postpone consideration of draft resolution E/CN.4/1994/L.22.

53. At the 46th meeting, the Commission resumed consideration of draft resolution E/CN.4/1994/L.22.

54. Statements in connection with the draft resolution and the proposed amendments were made by the representatives of Australia and Malaysia.

55. The Commission decided to postpone consideration of draft resolution E/CN.4/1994/L.22.

56. At its 57th meeting, the Commission resumed consideration of draft resolution E/CN.4/1994/L.22.

57. The representative of Australia made the following oral amendments to the draft resolution:

(a) In the first preambular paragraph, the word "universal" should be inserted before "indivisible" and the word "interdependent" inserted after "indivisible";

(b) In the ninth preambular paragraph, the words "and that violations of their rights are therefore serious obstacles to development" should be deleted;

(c) In operative paragraph 1, the words "trade union rights freely and in full" should be replaced by "right to organize and to form and join trade unions for the protection of their interests".

58. The draft resolution, as orally revised, was adopted without a vote.

59. For the text as adopted, see chapter II, section A, resolution 1994/63.

60. At the 41st meeting, on 25 February 1994, the Commission considered draft resolution IV, recommended by the Sub-Commission (E/CN.4/1994/2-E/CN.4/Sub.2/1993/45, chap. I, sect. A).

61. The representative of Brazil proposed that the draft resolution should be amended by deleting operative paragraph 5 from the text recommended for adoption by the Economic and Social Council.

62. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications of the draft resolution.

63. The draft resolution, as amended, was adopted without a vote.

64. For the text as adopted, see chapter II, section A, resolution 1994/14.

65. At the same meeting, the Commission considered draft decision 7 recommended by the Sub-Commission (E/CN.4/1994/2-E/CN.4/Sub.2/1993/45, chap. I, sect. B).

66. The representative of India proposed that the draft decision should be amended in paragraph (d) by inserting the words "with the consent of the States concerned" after "on-site visits".

67. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications of the draft decision.

68. The draft decision, as amended, was adopted without a vote.

69. For the text as adopted, see chapter II, section B, decision 1994/102.

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# DRAFT REPORT OF THE COMMISSION

Rapporteur: Mr. François-Xavier NGOUBEYOU

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* Documents E/CN.4/1994/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council, will be contained in documents E/CN.4/1994/L.11 and addenda.

VIII. QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

1. The Commission considered item 8 of the provisional agenda with items 7, 15 and 16 (see chaps. VII, XV and XVI), at its 12th to 19th meetings, on 8 to 11 February, and at its 46th meeting, on 1 March 1994.

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# DRAFT REPORT OF THE COMMISSION

Rapporteur: Mr. François-Xavier NGOUBEYOU

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* Documents E/CN.4/1994/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council will be contained in documents E/CN.4/1994/L.11 and addenda.

## IX. THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

1. The Commission considered item 9 of the provisional agenda concurrently with item 4 (see chap. IV) from its 4th to 8th meetings, from 2 to 4 February 1994, and at its 30th meeting, on 18 February 1994.

2. The Commission had before it the following documents:

Note by the Secretary-General transmitting to the General Assembly the report on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/48/385), prepared by Mr. Enrique Bernales Ballesteros, Special Rapporteur, in accordance with General Assembly resolution 47/84;

Report of the Secretary-General on the situation in occupied Palestine (E/CN.4/1994/22);

Report on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (E/CN.4/1994/23), submitted by Mr. Enrique Bernales Ballesteros, Special Rapporteur, in accordance with Commission resolution 1993/5.

3. At its 4th meeting, on 2 February 1994, Mr. Enrique Bernales Ballesteros, Special Rapporteur on mercenaries, introduced his report (E/CN.4/1994/23) to the Commission.

4. In the general debate on item 9, statements were made by the following members of the Commission: Australia (6th meeting), Brazil (4th), China (6th) Cuba (7th), Malaysia (6th), Mauritania (7th), Nigeria (7th), Pakistan (6th), Russian Federation (7th).

5. The Commission also heard statements by the observers for: Algeria (5th), Morocco (8th), Portugal (7th), Turkey (6th).

6. The observer for the Pan African Congress of Azania made a statement (6th).

7. The Commission also heard statements by representatives of the following non-governmental organizations: International Association of Educators for World Peace (8th), Centre Europe-Tiers monde (5th), Commission for the Defence of Human Rights in Central America (5th), International Indian Treaty Council (8th), Latin American Federation of Associations of Relatives of Disappeared Detainees (8th), France-Libertés: Fondation Danielle Mitterand (8th), International Educational Development, Inc. (8th), International League for the Rights and

Liberation of Peoples (6th), Pax Christi (8th), World Islamic Call Society (7th), World Muslim Congress (6th).

8. Statements in exercise of the right of reply or its equivalent were made by the representatives of: India (7th), Indonesia (8th), Morocco (8th), Pakistan (7th), Portugal (8th).

9. A statement in exercise of the second right of reply was made by the representative of Indonesia (8th).

10. At its 30th meeting, the Commission took up consideration of the draft resolutions submitted under agenda item 9.

11. The representative of the United States of America introduced draft resolution E/CN.4/1994/L.2, sponsored by Albania*, Australia, Argentina*, Bulgaria, Colombia, Costa Rica, El Salvador, Estonia*, Germany, Hungary, Japan, Latvia, Netherlands, Nicaragua*, Norway*, Peru, Poland, Romania, Russian Federation, Slovenia*, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay. The sponsors were subsequently joined by Angola, Barbados, Belgium*, Brazil, Cameroon, Canada, Côte d'Ivoire, Cyprus, Czech Republic*, Denmark*, Ecuador, Finland, Greece*, Guatemala*, Iceland*, India, Israel*, Italy, Jordan*, Kenya, Liechtenstein*, Malawi, Malta*, Mauritius, Morocco*, Myanmar*, New Zealand*, Panama*, Philippines*, Portugal*, Republic of Korea, Senegal*, Slovakia*, Spain*, Sweden*, Tunisia and Venezuela.

12. The representative of the Islamic Republic of Iran made a statement on the draft resolution.

13. At the request of the representative of the Syrian Arab Republic, a roll-call vote was taken on the draft resolution.

14. The draft resolution was adopted by 48 votes to 2, with 2 abstentions. The voting was as follows:

In favour: Angola, Australia, Austria, Bangladesh, Barbados, Brazil, Bulgaria, Cameroon, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Ecuador, Finland, France, Gabon, Germany, Hungary, India, Indonesia, Italy, Japan, Kenya, Lesotho, Malawi, Malaysia, Mauritania, Mauritius, Mexico, Netherlands, Nigeria, Pakistan, Peru, Poland, Republic of

Korea, Romania, Russian Federation, Sri Lanka, Togo, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Iran (Islamic Republic of), Syrian Arab Republic.

Abstaining: Libyan Arab Jamahiriya, Sudan.

15. Statements in explanation of vote after the vote were made by the representatives of Cuba, Ecuador, France, the Libyan Arab Jamahiriya, Mauritania, the Sudan and the Syrian Arab Republic.

16. For the text as adopted, see chapter II, section A, resolution 1994/4.

17. At the same meeting, the representative of Mauritania introduced draft resolution E/CN.4/1994/L.6, sponsored by Algeria*, Bahrain*, China, Cuba, Indonesia, Jordan*, Malaysia, Mauritania, Morocco*, Oman*, Pakistan, Qatar*, Saudi Arabia*, Senegal*, Somalia*, Sudan, Tunisia, United Arab Emirates*, and Yemen*.

18. Statements in explanation of vote before the vote were made by the representatives of Cyprus and the United States of America.

19. At the request of the representative of the United States of America, a roll-call vote was taken on the draft resolution.

20. The draft resolution was adopted by 26 votes to 1, with 25 abstentions. The voting was as follows:

In favour: Angola, Bangladesh, Brazil, Cameroon, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, Gabon, India, Indonesia, Iran (Islamic Republic of), Lesotho, Malaysia, Mauritania, Mexico, Nigeria, Pakistan, Republic of Korea, Sri Lanka, Sudan, Syrian Arab Republic, Tunisia, Venezuela.

Against: United States of America.

Abstaining: Australia, Austria, Barbados, Bulgaria, Canada, Côte d'Ivoire, Ecuador, Finland, France, Germany, Hungary, Italy, Japan, Kenya, Libyan Arab Jamahiriya, Malawi, Mauritius, Netherlands, Peru, Poland, Romania, Russian Federation, Togo, United Kingdom of Great Britain and Northern Ireland, Uruguay.

21. Statements in explanation of vote after the vote were made by the representatives of Canada, the Islamic Republic of Iran and the Libyan Arab Jamahiriya.

22. For the text as adopted, see chapter II, section A, resolution 1994/5.

23. At the same meeting, the Chairman introduced draft resolution E/CN.4/1994/L.7.

24. The draft resolution was adopted without a vote.

25. For the text as adopted, see chapter II, section A, resolution 1994/6.

26. At the same meeting, the representative of Nigeria introduced draft resolution E/CN.4/1994/L.9, sponsored by Angola, Barbados, Burundi*, Cameroon, China, Colombia, Costa Rica, Cuba, Ethiopia*, Ghana*, India, Kenya, Malawi, Mauritania, Mauritius, Nigeria, Rwanda*, Senegal*, the Sudan, Swaziland*, the United Republic of Tanzania* and Zambia*. The sponsors were subsequently joined by Iraq*, Myanmar*, Peru, Tunisia and Zimbabwe*.

27. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme-budget implications of the draft resolution.

28. The representative of the United Kingdom of Great Britain and Northern Ireland requested that the draft resolution should be put to a vote.

29. The draft resolution was adopted by 35 votes to 1, with 15 abstentions.

30. A statement in explanation of vote after the vote was made by the representative of the United States of America.

31. For the text as adopted, see chapter II, section A, resolution 1994/7.

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# DRAFT REPORT OF THE COMMISSION

Rapporteur: Mr. François-Xavier NGOUBEYOU

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* Documents E/CN.4/1994/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council, will be contained in documents E/CN.4/1994/L.11 and addenda.

GE.94-12118 (E)

Inhuman or Degrading Treatment or Punishment . .

X. QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR: (a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT; (b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT; (c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES; (d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

1. The Commission considered agenda item 10 and sub-items (a), (b), (c) and (d) at its 26th to 29th meetings and at its 31st to 34th meetings, from 16 to 22 February, and at its 55th meeting, on 4 March 1994. 2/

2. For its consideration of item 10, the Commission had before it the following documents:

Report of the Secretary-General on human rights and forensic science (E/CN.4/1994/24);

Report of the Working Group on Arbitrary Detention (E/CN.4/1994/27);

Updated report of the Secretary-General on the detention of international civil servants and their families, prepared pursuant to Commission on Human Rights resolution 1993/39 (E/CN.4/1994/30);

Note by the Secretary-General on the question of the human rights of all persons subjected to any form of detention or imprisonment (E/CN.4/1994/32);

Report of the Special Rapporteur, Mr. Abid Hussain, on the promotion and protection of the right to freedom of opinion and expression, prepared pursuant to Commission on Human Rights resolution 1993/45 (E/CN.4/1994/33);

Note by the Secretary-General on the drafting of a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms (E/CN.4/1994/88 and Corr.1);

Letter dated 28 April 1993 from the Permanent Mission of the Republic of Cyprus to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights at its forty-ninth session (E/CN.4/1994/93 and Corr.1);

Letter dated 28 January 1994 from the Permanent Representative of the Transitional Government of Ethiopia to the United Nations Office at Geneva,

addressed to the Assistant Secretary-General for Human Rights (E/CN.4/1994/103);

Written statement submitted by International PEN, a non-governmental organization on the Roster (E/CN.4/1994/NGO/5);

Written statement submitted by the International Federation of Action of Christians for the Abolition of Torture, a non-governmental organization on the Roster (E/CN.4/1994/NGO/8);

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II) (E/CN.4/1994/NGO/10);

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II) (E/CN.4/1994/NGO/11);

Written statement submitted by the American Association of Jurists, a non-governmental organization in consultative status (category II) (E/CN.4/1994/NGO/18);

Written statement submitted by the International Fellowship of Reconciliation, a non-governmental organization in consultative status (category II) (E/CN.4/1994/NGO/19);

Written statement submitted by Reporters Sans Frontières, a non-governmental organization in consultative status (category II) (E/CN.4/1994/NGO/21);

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II) (E/CN.4/1994/NGO/25);

Written statement submitted by the International Commission of Jurists (E/CN.4/1994/NGO/36).

3. At the 26th meeting, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, introduced his report (E/CN.4/1994/33) to the Commission.

4. At the same meeting, the Chairman-Rapporteur of the Working Group on Arbitrary Detention, Mr. Louis Joinet, introduced the report of the Working Group on Arbitrary Detention (E/CN.4/1994/27) to the Commission.

5. In the general debate on item 10, statements 3/ were made by the following members of the Commission: Australia (28th), Austria (32nd), Chile (26th and 32nd), China (28th), Cuba (34th), Cyprus (26th), India (29th), the Netherlands (33rd), Peru (32nd), Poland (33rd), the Republic of Korea (33rd), the Russian Federation (29th), the United Kingdom of Great Britain and Northern Ireland (29th), the United States of America (32nd).

6. The Commission also heard statements by the observers for: Algeria (33rd), the Czech Republic (28th), Greece (on behalf of the European Union and its members) (26th), Norway (on behalf of Denmark, Finland, Iceland, Norway and Sweden) (32nd), Portugal (33rd), Spain (32nd), Turkey (28th).

7. The Observer for Switzerland made a statement (29th).

8. The Commission also heard statements by the following non-governmental organizations: American Association of Jurists (31st), Amnesty International (29th), Arab Lawyers' Union (34th), Article 19: The International Centre Against Censorship (28th), Centre Europe - Tiers Monde (33rd), Commission for the Defence of Human Rights in Central America (33rd), Commission of the Churches on International Affairs of the World Council of Churches (27th), France Libertés: Fondation Danielle Mitterrand (26th), Habitat International Coalition (28th), Human Rights Watch (33rd), International Association against Torture (31st), International Association of Educators for World Peace (27th), International Commission of Jurists (28th), International Educational Development, Inc. (33rd), International Federation of Human Rights (National Coordination of Human Rights in Peru) (26th), International Indian Treaty Council (31st), International League for the Rights and Liberation of Peoples (27th), International PEN (26th), International Work Group for Indigenous Affairs (32nd), Lawyers Committee for Human Rights (29th), Liberation (31st), Pax Christi (32nd), Pax Romana (and National Coordination of Human Rights in Peru) (33rd), Reporters Sans Frontières (31st), Robert F. Kennedy Memorial, Service, Peace and Justice in Latin America (29th), Women's International League for Peace and Freedom (34th), World Christian Life Community (28th), World Organization Against Torture (27th), World Student Christian Federation (33rd).

9. Statements in exercise of the right of reply or its equivalent were made by the representatives of Bangladesh (33rd), China (29th and 33rd), Costa Rica

(34th), Cuba (29th, 32nd, 33rd and 34th), Ecuador (32nd), India (29th, 32nd, 33rd and 34th), Indonesia (33rd and 34th), Iraq (29th), the Islamic Republic of Iran (32nd), Kenya (29th and 32nd), Malawi (32nd), Pakistan (29th, 32nd and 34th), the Philippines (34th), Portugal (34th), Spain (29th), the Syrian Arab Republic (34th), and the United States of America (34th).

10. Statements in exercise of the second right of reply were made by Pakistan (34th) and Portugal (34th).

11. At the 55th meeting, the representative of Kenya introduced draft resolution E/CN.4/1994/L.31, sponsored by Angola, Burundi*, Cameroon, Côte d'Ivoire*, Ethiopia*, Gabon, Ghana*, Kenya, Lesotho, Liberia*, Madagascar*, Malawi, Mauritius, Mauritania, Morocco*, Nigeria, Rwanda*, Senegal*, Sudan, Swaziland*, Togo, Tunisia, United Republic of Tanzania*, Zambia* and Zimbabwe*.

12. The draft resolution was adopted without a vote.

13. For the text as adopted, see chapter II, section A, resolution 1994/30.

14. The representative of the United States of America made a statement explaining his delegation's position.

15. At the same meeting, the representative of Portugal introduced draft resolution E/CN.4/1994/L.42, sponsored by Australia, Austria, Cameroon, Costa Rica, the Czech Republic*, France, Germany, Hungary, Ireland, Italy, Liechtenstein*, New Zealand*, Philippines*, Portugal*, Republic of Korea, Slovakia*, Sweden*, Ukraine*, and the United Kingdom of Great Britain and Northern Ireland. Canada, Greece*, Guinea Bissau, Japan, Lithuania*, Luxembourg*, Norway* and Turkey* subsequently joined the sponsors of the draft resolution.

16. The Commission suspended consideration of draft resolution E/CN.4/1994/L.42.

17. Later at the same meeting, the Commission resumed consideration of draft resolution E/CN.4/1994/L.42.

18. The representative of Portugal orally revised the draft resolution as follows:

(a) In the fourth preambular paragraph, in the English text, add the words "sending missions in difficult conditions" after "responsibilities";

(b) In the same paragraph, after "world", delete the words "particularly in peace-keeping missions and humanitarian operations in difficult conditions";

(c) In the same paragraph, after "staff members", add "and other personnel acting under its authority".

19. The draft resolution, as orally revised, was adopted without a vote.

20. For the text as adopted, see chapter II, section A, resolution 1994/42.

21. At the same meeting, the representative of the Russian Federation introduced draft resolution E/CN.4/1994/L.43, sponsored by Argentina*, Armenia*, Austria, the Netherlands, Portugal*, the Russian Federation and Slovakia*. The Czech Republic*, France, Germany, Greece*, Lithuania* and the United States of America subsequently joined the sponsors of the draft resolution.

22. The representative of the Russian Federation orally revised the draft resolution by deleting from the thirteenth preambular paragraph, after the words "the experience", "the Commission of Experts established pursuant to Security Council resolution 780 (1992) of 6 October 1992 and other".

23. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications 2/ of the draft resolution.

24. The draft resolution, as orally revised, was adopted without a vote.

25. For the text as adopted, see chapter II, section A, resolution 1994/31.

26. At the same meeting, the representative of France introduced draft resolution E/CN.4/1994/L.44, sponsored by Argentina*, Australia, Austria, Belgium*, Bulgaria, Cameroon, Canada, Chile, Costa Rica, Cyprus, the Czech Republic*, Finland, France, Germany, Hungary, Ireland*, Mauritius, Norway*, Portugal*, Romania, Rwanda*, Senegal*, Slovakia*, Sweden* and Switzerland*. Cuba, Guinea-Bissau, Lithuania*, Madagascar*, the Netherlands, the Philippines*, Poland, the Russian Federation, Slovakia*, Tunisia, the United Kingdom of Great Britain and Northern Ireland and the United States of America subsequently joined the sponsors.

27. The representative of France orally revised the draft resolution as follows:

(a) In paragraph 1, replace "adversarial procedure" by "the procedures which it has established";

(b) Paragraph 5 becomes paragraph 6, and paragraph 6 becomes paragraph 5;

(c) In the new paragraph 5, replace "also" by ", in this context,";

(d) In paragraph 16, after "Habeas corpus", insert "or a similar procedure";

(e) In paragraph 19, after the words "its consultations" insert "within the framework of its terms of reference".

28. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications 2/ of the draft resolution.

29. The draft resolution was adopted without a vote.

30. For the text as adopted, see chapter II, section A, resolution 1994/32.

31. At the same meeting, the representative of Canada introduced draft resolution E/CN.4/1994/L.46, sponsored by Australia, Austria, Belgium*, Canada, Chile, Costa Rica, Cyprus, the Czech Republic*, Denmark*, France, Germany, Hungary, Ireland*, Japan, the Netherlands, Norway*, Poland, Portugal*, the Russian Federation, Sweden* and Switzerland*. Bulgaria, Liechtenstein*, Lithuania*, Slovakia*, the United Kingdom of Great Britain and Northern Ireland and the United States of America subsequently joined the sponsors.

32. The representative orally revised the draft resolution by replacing paragraph 10 by the following, in the English text: "Expresses its concern at the number of cases of arbitrary detention ordered following the exercise of rights protected by article 19 of the International Covenant on Civil and Political Rights concerning the right to freedom of opinion and expression, as noted in the third report of the Working Group on Arbitrary Detention".

33. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications 2/ of the draft resolution.

34. The draft resolution, as orally revised, was adopted without a vote.

35. For the text as adopted, see chapter II, section A, resolution 1994/33.

36. After the vote, the representative of Malaysia made a statement in explanation of his delegation's position.

37. At the same meeting, the representative of Austria introduced draft resolution E/CN.4/1994/L.48, sponsored by Australia, Austria, Costa Rica,

Denmark*, Finland, Germany, Hungary, Italy, the Netherlands, Norway* and Spain*. Belgium*, Cameroon, Canada, Cyprus, France, Lithuania*, New Zealand* and Sweden* subsequently joined the sponsors.

38. The draft resolution was adopted without a vote.

39. For the text as adopted, see chapter II, section A, resolution 1994/34.

40. After the vote, the representative of the United States of America made a statement in explanation of his delegation's position.

41. At the same meeting, the representative of Chile introduced draft resolution E/CN.4/1994/L.50, sponsored by Argentina*, Australia, Barbados, Bulgaria, Canada, Chile, Costa Rica, Denmark*, Ecuador, Finland, France, Hungary, Italy, Mauritius, the Netherlands, Peru, Poland, the Republic of Korea, Senegal*, Switzerland*, Uruguay and Venezuela. Australia, the United Kingdom of Great Britain and Northern Ireland, Portugal*, Belgium*, the Philippines*, Sweden*, Lithuania*, Norway*, the Republic of Korea, Cyprus, Cuba, Nigeria, Kuwait* and Gabon subsequently joined the sponsors.

42. The draft resolution was adopted without a vote.

43. For the text as adopted, see chapter II, section A, resolution 1994/35.

44. At the same meeting, the representative of Japan introduced draft decision E/CN.4/1994/L.51, sponsored by Canada, Japan and Norway*. Germany subsequently joined the sponsors of the draft decision.

45. The representative of the Syrian Arab Republic made a statement concerning the draft decision.

46. In accordance with article 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications 2/ of the draft decision.

47. The draft decision was adopted without a vote.

48. For the text as adopted, see chapter II, section B, decision 1994/197.

49. In view of the adoption of decision 1994/107 (see paras. 44-48), the Commission decided to take no action on draft decision 3, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities for adoption by the Commission (E/CN.4/1994/2-E/CN.4/Sub.2/1993/45, chap. I, sect. B).

50. On 28 February 1994, draft resolution E/CN.4/1994/L.53 had been submitted by the following countries: Argentina*, Belgium*, Canada, Finland, France, Germany, Hungary, Latvia*, Norway*, Poland, Portugal*, Russian Federation, Rwanda*, Senegal*, Slovenia* and Switzerland*. This draft resolution read as follows:

"Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

"The Commission on Human Rights,

"Guided by articles 7, 8, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 4 and 26 of the International Covenant on Civil and Political Rights,

"Convinced that an independent and impartial judiciary and an independent legal profession are essential prerequisites for the protection of human rights and for ensuring that there is no discrimination in the administration of justice,

"Bearing in mind the Vienna Declaration and Programme of Action (A/CONF.157/23), in particular paragraph 27 of part I and paragraphs 88, 90 and 95 of part II,

"Recalling its resolution 1989/32 of 6 March 1989, 1990/33 of 2 March 1990, 1991/39 of 5 March 1991, 1992/33 of 28 February 1992 and 1993/44 of 5 March 1993,

"Recalling also General Assembly resolution 45/166 of 18 December 1990, in which the Assembly welcomed the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and invited Governments to respect them and to take them into account within the framework of their national legislation and practice,

"Bearing in mind the principles contained in the draft Declaration on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers (E/CN.4/Sub.2/1988/20/Add.1 and Add.1/Corr.1), prepared by Mr. L.M. Singhi, the importance of which was noted by the Commission on Human Rights, in its resolution 1989/32 of 6 March 1989,

"Noting on the one hand the increasingly frequent attacks on their independence suffered by judges, lawyers and court officers, and on the

other hand the link between the weakening of safeguards for the judiciary and the gravity of violations of human rights,

"1. Welcomes the final report on the independence of the judiciary and the protection of practising lawyers (E/CN.4/Sub.2/1993/25 and Add.1), prepared by Mr. Louis Joinet, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

"2. Endorses the recommendation of the Sub-Commission, as contained in its resolution 1993/39 of 26 August 1993, to create a monitoring mechanism to follow up the question of the independence and impartiality of the judiciary, particularly with regard to judges and lawyers, as well as court officers, and the nature of problems liable to attack this independence and impartiality;

"3. Requests the Chairman of the Commission to appoint, for a period of three years, after consultation with the other members of the Bureau, a special rapporteur whose mandate will consist of the following tasks:

"(a) To submit any allegations transmitted to the special rapporteur to adversarial examination;

"(b) To identify and record not only attacks on the independence of the judiciary, lawyers and court officers but also progress achieved in protecting and enhancing such independence and make proposals for technical assistance programmes and advisory services to the States concerned;

"(c) To study, in view of their topicality and importance, for the purpose of making proposals, certain questions of principle, the aim being to protect and enhance the independence of the judiciary and lawyers;

"4. Urges all Governments to assist the special rapporteur in the discharge of his or her mandate and to transmit to him or her all the information requested;

"5. Requests the special rapporteur, starting with the fifty-first session, to submit a report on the activities connected with his or her mandate;

"6. Requests the Secretary-General, within the limits of the resources of the United Nations, to provide the special rapporteur with any assistance needed for the discharge of his or her mandate;

"7. Decides to consider this question at its fifty-first session;

"8. Recommends the following draft decision to the Economic and Social Council for adoption:

'The Economic and Social Council,

'Taking note of Commission on Human Rights resolution 1994/... of ... 1994, endorses the decision of the Commission to confirm the proposal of the Sub-Commission to create a monitoring mechanism to follow up the question of the independence and impartiality of the judiciary, particularly with regard to judges and lawyers, as well as court officers, and the nature of problems liable to attack this independence and impartiality, and recommends that this take the form of a special rapporteur whose mandate will consist of the following tasks:

'(a) To submit any allegations transmitted to the special rapporteur to adversarial examination;

'(b) To identify and record not only attacks on the independence of the judiciary, lawyers and court officers but also progress achieved in protecting and enhancing such independence and make proposals for technical assistance programmes and services when they are requested by the State concerned;

'(c) To study, in view of their importance and topicality, for the purpose of making proposals, certain questions of principle, the aim being to protect and enhance the independence of the judiciary and lawyers;

'The Council also approves the request of the Commission to the Secretary-General to provide the special rapporteur with all the assistance necessary for the completion of his or her task.'"

51. At the 55th meeting, the representative of Belgium introduced a revised draft resolution (E/CN.4/1994/L.53/Rev.1) which had the same sponsors as draft resolution E/CN.4/1994/L.53. Angola, Armenia*, Australia, Austria, Bangladesh, Cameroon, Chile, Czech Republic*, Denmark*, Germany, Guinea-Bissau, Ireland*,

Jordan*, Luxembourg*, Madagascar*, Netherlands, Republic of Korea, Slovakia*, Sweden* and Uruguay subsequently joined the sponsors of the draft resolution.

52. The representatives of India and the Syrian Arab Republic made statements concerning the draft resolution.

53. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications 2/ of the draft resolution.

54. The draft resolution was adopted without a vote.

55. For the text as adopted, see chapter II, section A, resolution 1994/41.

56. In view of the adoption of resolution 1994/41 (see paras. 50-55), the Commission decided to take no action on draft resolution VI recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities for adoption by the Commission (E/CN.4/1994/2-E/CN.4/Sub.2/1993/45, chapt. I, sect. B).

57. At the same meeting, the Commission considered draft resolution II recommended by the Sub-Commission for adoption by the Commission (E/CN.4/1994/2-E/CN.4/Sub.2/1993/45, chap. I, sect. A).

58. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications 2/ of the draft resolution.

59. The draft resolution was adopted without a vote.

60. For the text as adopted, see chapter II, section A, resolution 1994/43.

61. At the same meeting, the Commission considered draft resolution V recommended by the Sub-Commission for adoption by the Commission (E/CN.4/1994/2-E/CN.4/Sub.2/1993/45, chap. I, sect. A).

62. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications 2/ of the draft resolution.

63. The draft resolution was adopted without a vote.

64. For the text as adopted, see chapter II, section A, resolution 1994/44.

A. Torture and other cruel, inhuman or degrading treatment or punishment

65. In connection with agenda item 10 (a), the Commission had before it the following documents:

Report of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture (A/48/520);

Report of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture (E/CN.4/1994/29 and Add.1);

Report submitted by the Special Rapporteur, Mr. Nigel S. Rodley, pursuant to resolution 1992/32 of the Commission (E/CN.4/1994/31);

Written statement submitted by the American Association of Jurists, a non-governmental organization in consultative status (category II) (E/CN.4/1994/NGO/18).

66. At the 26th meeting, the Special Rapporteur on the question of torture, Mr. Nigel S. Rodley, introduced his report (E/CN.4/1994/31).

67. In the general debate on agenda item 10 (a), statements 1/ were made by the following countries members of the Commission: Australia (28th), Austria (32nd), Brazil (32nd), Cuba (34th), Cyprus (26th), Czech Republic (28th), Greece (26th), India (29th), Indonesia (31st), Malawi (27th), Netherlands (33rd), Peru (32nd), Poland (33rd), Portugal (33rd), Republic of Korea (33rd), Sri Lanka (29th), Sudan (29th), United Kingdom of Great Britain and Northern Ireland (29th).

68. The Commission heard statements by the observers for the following countries: Denmark (on behalf of Denmark, Finland, Iceland, Norway and Sweden) (27th), Egypt (32nd), Greece (on behalf of the European Union and its members) (26th), Senegal (27th) and Spain (32nd).

69. The observer for Switzerland made a statement (29th).

70. The Commission also heard statements by the representatives of the following non-governmental organizations: Amnesty International (29th), Andean Commission of Jurists (28th), International Association of Educators for World Peace (27th), Centre Europe-Tiers Monde (33rd), Commission of the Churches on International Affairs of the World Council of Churches (27th), International Indian Treaty Council (31st), World Muslim Congress (33rd), International Federation of Human Rights (26th), World Student Christian Federation (33rd), France-Liberté -

Fondation Danielle Mitterrand (26th), Indian Institute for Non-Aligned Studies (27th), Human Rights Watch (33rd), International Educational Development, Inc. (33rd), International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities (33rd), Liberation (31st), International League for the Rights and Liberation of Peoples (28th), International Movement for Fraternal Union among Races and Peoples (27th), World Movement of Mothers (27th), International Falcon Movement (28th), Internationale éducative socialiste, International Association against Torture (31st), Pax Christi (32nd), Pax Romana (33rd), Arab Lawyers Union (34th), Service, Peace and Justice in Latin America (29th), Lawyers Committee for Human Rights (29th).

71. Statements in exercise of the right of reply or its equivalent were made by the representatives of India (29th, 32nd and 34th), Indonesia (33rd and 34th), Iraq (29th), Pakistan (29th, 32nd and 34th), Spain (29th) and Turkey (33rd).

72. At the 55th meeting, the representative of Finland introduced draft resolution E/CN.4/1994/L.47, sponsored by the following countries: Australia, Austria, Cameroon, Canada, Chile, Czech Republic*, Costa Rica, Denmark*, Finland, France, Hungary, Iceland*, Ireland*, Italy, Latvia*, Liechtenstein*, Netherlands, New Zealand*, Norway*, Poland, Senegal*, Sweden*, Switzerland*, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay. Algeria*, Belgium*, Germany, Greece*, Japan, Luxembourg*, Nigeria, Senegal* and Tunisia subsequently joined the sponsors of the draft resolution.

73. The draft resolution was adopted without a vote.

74. For the text as adopted, see chapter II, section A, resolution 1994/36.

75. On 2 March 1994, draft resolution E/CN.4/1994/L.54 had been submitted by the following countries: Argentina*, Australia, Austria, Belgium*, Burundi*, Canada, Costa Rica, Denmark*, Finland, Germany, Hungary, Ireland*, Italy, Latvia*, Liechtenstein*, Luxembourg*, Netherlands, New Zealand*, Norway*, Portugal*, Romania, Russian Federation, Rwanda*, Senegal*, Slovakia*, Slovenia*, Sweden*, Switzerland* and United Kingdom of Great Britain and Northern Ireland. The draft resolution read as follows:

"Torture and other cruel, inhuman or degrading treatment or punishment

"The Commission on Human Rights,

"Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

"Recalling the Declaration on the Protection of All Persons from Being Subjected to Torture or Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 3452 (XXX) of 9 December 1975,

"Recalling also the World Conference on Human Rights and its Vienna Declaration and Programme of Action, in particular part I, paragraph 30, in which the World Conference stated that, inter alia, torture and other cruel, inhuman and degrading treatment or punishment constituted serious obstacles to the full enjoyment of all human rights,

"Recalling further part II.B.5 of the Vienna Declaration and Programme of Action concerning the eradication of torture,

"Noting with appreciation that the number of States which have become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is steadily increasing,

"Welcoming the establishment at the regional level, in accordance with the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,

"Seriously concerned, however, about the persistence of an alarming number of reported cases of torture and other cruel, inhuman or degrading treatment or punishment taking place in various parts of the world,

"Recalling its resolution 1985/33 of 13 March 1985, in which it decided to appoint for one year a special rapporteur to examine questions relevant to torture, and all its subsequent resolutions in which that mandate was regularly extended, most recently for another three years in resolution 1992/32 of 28 February 1992, while maintaining the annual reporting cycle,

"Welcoming a continuing exchange of views between the Special Rapporteur and the Committee against Torture, established under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment

or Punishment, the Working Group on Arbitrary Detention, and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as contacts with the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture,

"Aware that torture constitutes a criminal obliteration of the human personality which can never be justified under any circumstances, by any ideology or by any overriding interest, and convinced that a society that tolerates torture can never claim to respect human rights,

"Determined to promote the full implementation of the prohibition under international and national law of the practice of torture and other cruel, inhuman or degrading treatment or punishment,

"Convinced that efforts to eradicate torture should first and foremost be concentrated on prevention,

"Noting, in this regard, the importance of the provision of advisory services and technical assistance as forms of practical assistance to interested States with a view to enabling them to develop the necessary infrastructure to meet international human rights standards,

"Recalling the Standard Minimum Rules for the Treatment of Prisoners, approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment, adopted by the General Assembly in its resolution 37/194 of 18 December 1982, and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985,

"Recalling also the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, approved by the General Assembly in its resolution 43/173 of 9 December 1988,

"Recalling further the conclusions and recommendations of the previous Special Rapporteur underlined in its resolutions 1987/29 of 10 March 1987, 1988/32 of 8 March 1988, 1989/33 of 6 March 1989, 1990/34 of 2 March 1990,

1991/38 of 5 March 1991, 1992/32 of 28 February 1992 and 1993/40 of 5 March 1993,

"1. Commends the Special Rapporteur on his report (E/CN.4/1994/31);

"2. Urges all Governments to promote the speedy and full implementation of the Vienna Declaration and Programme of Action, in particular of the section relating to freedom from torture;

"3. Stresses the recommendations of the previous Special Rapporteur, commended by the present Special Rapporteur for serious action by Governments, and in particular:

"(a) Concerning the importance of instituting a system of periodic visits by independent experts to places of detention as a highly effective preventive measure against the occurrence of torture;

"(b) That the judiciary should play an active role in guaranteeing to detainees the rights they have in accordance with international and national standards;

"(c) That the right to have access to a lawyer is one of the basic rights of a person who is deprived of his liberty and that restrictions on this right should therefore be exceptional and always subject to judicial control;

"(d) That each person should have the right to initiate promptly after his arrest proceedings before a court on the lawfulness of his detention, in conformity with the International Covenant on Civil and Political Rights;

"(e) That interrogation of detainees should take place only at official interrogation centres, that each interrogation should be duly recorded and start with the identification of all the persons present and that the blindfolding or hooding of detainees during interrogation should be absolutely forbidden;

"(f) Pertaining to the establishment at the national level of an independent authority able to receive complaints by individuals about torture or other severe maltreatment;

"4. Recalls that incommunicado detention is highly conducive to torture and that in the Special Rapporteur's view incommunicado detention should be forbidden;

"5. Recalls the recommendation of the previous Special Rapporteur that Governments and professional and medical associations should take strict measures against members of the medical profession who play a role in the practice of torture;

"6. Endorses the recommendation of the previous Special Rapporteur that those who violate article 7 of the International Covenant on Civil and Political Rights, whether by encouraging, ordering, tolerating or perpetrating prohibited acts, must be held responsible and that whenever a complaint of torture is found to be justified, the

perpetrators should be severely punished, especially the official in charge of the place of detention where the torture is found to have taken place;

"7. Calls upon all States that have not yet done so to become as soon as possible parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and requests the Special Rapporteur to continue to promote universal accession to that Convention and to encourage all States to fulfil its provisions strictly;

"8. Emphasizes the importance of training programmes for law enforcement and security personnel, and draws the attention of interested Governments to the possibilities offered in this connection by the United Nations programme of advisory services in the field of human rights;

"9. Encourages the Special Rapporteur to make appropriate recommendations concerning situations in which advisory services to judicial, law enforcement, detention and other authorities might assist interested Governments in combating the occurrence of torture;

"10. Urges the Secretary-General to make available, as part of the United Nations programme of advisory services in the field of human rights, qualified experts in law enforcement, detention and medicine to assist Governments, at their request, in their efforts to prevent the occurrence of torture;

"11. Decides that the Special Rapporteur, in carrying out his mandate, shall continue to seek and receive credible and reliable information from Governments, the specialized agencies and intergovernmental and non-governmental organizations;

"12. Approves the methods of work employed by the Special Rapporteur, in particular as regards urgent appeals;

"13. Considers it desirable that the Special Rapporteur should continue to have a further exchange of views with the various mechanisms and bodies entrusted with the task of combating torture, in particular with a view to enhancing further their effectiveness and mutual cooperation, and that he should pursue cooperation with relevant United Nations programmes notably that on crime prevention and criminal justice;

"14. Invites the Special Rapporteur, in carrying out his mandate, to bear in mind the need to be able to respond effectively to credible and reliable information that comes before him and to carry out his work with discretion;

"15. Appeals to all Governments to cooperate with and assist the Special Rapporteur in the performance of his tasks and to supply all information requested, including by reacting properly to his urgent appeals;

"16. Urges those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer expeditiously;

"17. Regrets that in the past year no Government has invited the Special Rapporteur to visit its country;

"18. Encourages Governments to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable him to fulfil his mandate even more effectively;

"19. Calls upon the Special Rapporteur to continue to include information in his report on the follow-up by Governments to his recommendations, visits and communications;

"20. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur to cover all of his activities in order

to enable him to submit his report to the Commission at its fifty-first session."

76. At the 55th meeting, the representative of Belgium submitted a revised draft resolution (E/CN.4/1994/L.54/Rev.1), sponsored by the following countries: Argentina*, Armenia*, Australia, Austria, Belgium*, Burundi*, Cameroon, Canada, Costa Rica, Czech Republic*, Denmark*, Finland, Germany, Greece*, Hungary, Ireland*, Italy, Latvia*, Liechtenstein*, Luxembourg*, Malta*, Netherlands, New Zealand*, Norway*, Portugal*, Romania, Russian Federation, Rwanda*, Senegal*, Slovakia*, Slovenia*, Sweden*, Switzerland*, Ukraine and United Kingdom of Great Britain and Northern Ireland. Cyprus, the United States of America and Poland subsequently joined the sponsors of the draft resolution.

77. The draft resolution was adopted without a vote.

78. For the text as adopted, see chapter II, section A, resolution .

### B. Status of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

79. In relation to agenda item 10 (b), the Commission had before it the report of the Secretary-General on the status of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1994/28).

80. In the general debate on agenda item 10 (b), statements 3/ were made by the following countries members of the Commission: Austria (32nd), China (29th), Cyprus (26th), Malawi (27th) and Sri Lanka (29th).

81. The Commission also heard statements by the observers for the following countries: Algeria (33rd), Czech Republic (28th), Denmark (on behalf of Denmark, Iceland, Finland, Norway and Sweden) (28th), Greece (on behalf of the European Union and its members) (26th), Senegal (27th) and Spain (32nd).

82. The Commission also heard statements by the representatives of the following non-governmental organizations: Women's International League for Peace and Freedom (34th) and World Organization against Torture (26th).

83. The representative of Spain made a statement in exercise of the right of reply or its equivalent (29th).

84. At the 55th meeting, the representative of Finland introduced draft resolution E/CN.4/1994/L.49, sponsored by the following countries: Australia, Austria, Bulgaria, Cameroon, Canada, Chile, Costa Rica, Czech Republic*, Denmark*, Finland, France, Greece*, Hungary, Ireland*, Italy, Latvia*,

Liechtenstein*, Netherlands, New Zealand*, Norway*, Peru, Poland, Portugal*, Russian Federation, Senegal*, Slovakia*, Spain*, Sweden*, Switzerland*, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay. Côte d'Ivoire, Germany, Greece*, Luxembourg*, Mexico, Panama* and Senegal* subsequently joined the sponsors of the draft resolution.

85. The draft resolution was adopted without a vote.

86. For the text as adopted, see chapter II, section A, resolution 1994/38.

C. Question of enforced or involuntary disappearances

87. In relation to agenda item 10 (c), the Commission had before it the following documents:

Report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1994/26 and Corr.1 and 2);

Report on the visit to the former Yugoslavia by a member of the Working Group on Enforced or Involuntary Disappearances at the request of the Special Rapporteur on the situation of human rights in the former Yugoslavia (E/CN.4/1994/26/Add.1);

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II) (E/CN.4/1994/NGO/25).

88. At the [illegible]th meeting, on 16 February 1994, the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, Mr. Ivan Tosevski, introduced the report of the Working Group to the Commission (E/CN.4/1994/26 and Corr.1 and 2).

89. During the general debate on agenda item 10 (c), statements 3/ were made by the following countries members of the Commission: Australia (28th), Austria (32nd), Cuba (34th), Cyprus (26th), India (29th), Indonesia (31st), Malawi (27th), Netherlands (33rd), Peru (32nd), Poland (33rd), Republic of Korea (33rd), Sri Lanka (29th) and United Kingdom of Great Britain and Northern Ireland (29th).

90. The Commission also heard statements by the observers for the following countries: Croatia (32nd), Nicaragua (26th), Norway (32nd) and Portugal (33rd).

91. The observer for Switzerland made a statement (29th).

92. The Commission also heard statements by the representatives of the following non-governmental organizations: Amnesty International (29th), Andean Commission

of Jurists (28th), Arab Lawyers Union (34th), Arab Organization for Human Rights (27th), Commission of the Churches on International Affairs of the World Council of Churches (27th), Commission for the Defence of Human Rights in Central America (33rd), France-Libertés: Fondation Danielle Mitterrand (26th), Indian Institute for Non-Aligned Studies (27th), International Association against Torture (31st), International Educational Development, Inc. (33rd), International Indian Treaty Council (31st), International Organization for the Elimination of All Forms of Racial Discrimination (32nd), Latin American Federation of Associations of Relatives of Detained or Disappeared Persons (32nd), Liberation (31st), Service, Peace and Justice in Latin America (29th), Women's International League for Peace and Freedom (34th), World Muslim Congress (33rd) and World Society of Victimology (26th).

93. Statements in exercise of the right of reply or its equivalent were made by the representatives of India (32nd and 34th), Indonesia (33rd and 34th), Morocco (34th) and Pakistan (29th, 32nd and 34th).

94. On 24 February 1994, the representative of Croatia had introduced draft resolution E/CN.4/1994/L.29; Bosnia and Herzegovina* and Slovakia* subsequently joined the sponsors of this draft resolution. The text of the draft resolution read as follows:

"Problem of missing persons in the territory of the former Yugoslavia

"The Commission on Human Rights,

"Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the Geneva Conventions of 12 August 1949 for the protection of war victims and the Additional Protocols thereto of 1977, as well as other relevant documents and resolutions of the General Assembly and the Security Council.

"Recalling General Assembly resolution 47/133 of 18 December 1992, in which the General Assembly proclaimed the Declaration on the Protection of All Persons from Enforced Disappearance,

"Recalling also its resolution 1993/7 in which it specifically requested the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, in consultation with the Working Group on Enforced or Involuntary Disappearances and the International Committee of

the Red Cross, to develop proposals for a mechanism to address the subject of disappearances in the former Yugoslavia,

"Deeply disturbed at the huge number of missing persons still unaccounted for in the conflict in the former Yugoslavia, particularly in the Republic of Bosnia and Herzegovina and the Republic of Croatia,

"Aware of its responsibility to promote and encourage respect for human rights and fundamental freedoms for all,

"Expressing its deepest sympathy to the families of missing persons in the territory of the former Yugoslavia while reaffirming its readiness to undertake all necessary measures with a view to expediting the search for their next of kin,

"Having considered the report on the visit to the former Yugoslavia by a member of the Working Group on Enforced or Involuntary Disappearances undertaken at the request of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia (E/CN.4/1994/26/Add.1) and the valuable proposals contained therein,

"Stressing that the basic objective of the "special process" for dealing with the problem of missing persons in the territory of the former Yugoslavia proposed in the report should be to provide their relatives and families with information on their fate,

"1. Endorses the conclusions and recommendations contained in the report of a member of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1994/26/Add.1) and decides to establish the proposed 'special process' as the joint mandate of the Special Rapporteur on the situation of human rights in the former Yugoslavia and one member of the Working Group on Enforced or Involuntary Disappearances;

"2. Expresses its full support for the recommendation that the 'special process' should be strictly humanitarian and rely on a pragmatic approach with a view to securing maximum efficiency and maximum cooperation of all parties in the search for missing persons in the territory of the former Yugoslavia;

"3. Considers that the 'special process' should be enabled to make direct contact with the parties concerned and on-the-spot investigations which are necessary to promote the search for missing persons;

"4. Requests the Secretary-General to provide the 'special process' with the necessary experienced personnel, equipment and financial resources from the regular budget of the United Nations, if necessary by soliciting contributions for this humanitarian cause from interested Governments and other organizations, and requests the Working Group on Enforced or Involuntary Disappearances to proceed immediately, through appropriate inter-sessional consultations, to designate one of its members for this purpose;

"5. Stresses the urgency of establishing this special mechanism in order that all the requests to search for missing persons which have already been processed by the Working Group on Enforced or Involuntary Disappearances can immediately be presented to the parties concerned;

"6. Invites the Governments concerned, other interested parties and those in a position to help, including the International Committee of the Red Cross to cooperate fully and constructively with the 'special process' so as to enable it to discharge its functions efficiently and thus to alleviate the pain and suffering of many relatives of disappeared persons;

"7. Requests the Special Rapporteur on the situation of human rights in the former Yugoslavia and the designated member of the Working Group on Enforced or Involuntary Disappearances to keep the families and relatives of missing persons informed of the results of their investigations and to submit joint annual reports to the Commission on Human Rights which would include, as appropriate, identification of obstacles and impediments affecting their work."

95. At the 55th meeting, no member having requested a vote on draft resolution E/CN.4/1994/L.29, in accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council, the Commission did not vote on the draft resolution.

96. At the same meeting, the representative of France introduced draft resolution E/CN.4/1994/L.45, sponsored by the following countries: Argentina*,

Australia, Austria, Belgium*, Bulgaria, Cameroon, Chile, Costa Rica, Czech Republic*, Denmark*, Finland, France, Hungary, Ireland*, Italy, Luxembourg*, Mauritius, New Zealand*, Norway*, Poland, Romania, Russian Federation, Rwanda*, Senegal*, Slovakia*, Spain*, Sweden*, Switzerland*. Canada, Cyprus, Czech Republic*, Guinea Bissau, Latvia*, Luxembourg*, Madagascar*, Netherlands, Portugal* and the United Kingdom of Great Britain and Northern Ireland subsequently joined the sponsors of the draft resolution.

97. The representative of France revised the draft resolution orally as follows:

(a) In the sixth preambular paragraph, after the words "Working Group, the" delete the words "legislation, policy and";

(b) In the same paragraph, replace the words "many States" by the words "a number of States can";

(c) In the penultimate preambular paragraph, replace the word "establishment" by the word "compilation";

(d) In the same paragraph, add the word "preliminary" before the word "list";

(e) In operative paragraphs 11 and 12, replace the words "the Governments concerned" by the word "Governments";

(f) In operative paragraph 17, replace the words "pursuant to" by the words "in the exercise of";

(g) In operative paragraph 18, delete the words "to assess the practice of States in the light of the Declaration";

(h) In operative paragraph 21, after the words "habeas corpus", add the words "or a similar procedure";

(i) In operative paragraph 23, replace the word "Endorses" by the words "Takes note with interest of".

98. The draft resolution, as orally revised, was adopted without a vote.

99. For the text as adopted, see chapter II, section A, resolution 1994/39.

### D. Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

100. In relation to agenda item 10 (d), the Commission had before it the report of the Working Group on the draft optional protocol to the Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1994/25 and Add.1).

101. At the 26th meeting, on 16 February 1994, the Chairman-Rapporteur of the Working Group, Mr. Jorge Rhenán Segura, introduced the report of the Working Group on the draft protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

102. In the general debate on agenda item 10 (d), statements 3/ were made by the following countries members of the Commission: Australia (28th), Austria (32nd), Brazil (32nd), Chile (31st), Costa Rica (29th), Cyprus (26th) and Malawi (27th).

103. The Commission also heard a statement by the observer for Senegal (27th).

104. The Commission also heard statements by the representatives of the following non-governmental organizations: World Organization Against Torture (27th) and Service, Peace and Justice in Latin America (29th).

105. At the 55th meeting, the representative of Costa Rica introduced draft resolution E/CN.4/1994/L.52, sponsored by the following countries: Argentina*, Australia, Austria, Barbados, Belgium*, Brazil, Bulgaria, Cameroon, Canada, Chile, Colombia, Costa Rica, Côte d'Ivoire, Czech Republic*, Denmark*, Ecuador, El Salvador*, Finland, France, Germany, Greece*, Guatemala*, Hungary, Italy, Latvia*, Liechtenstein*, Luxembourg*, Madagascar*, Netherlands, Norway*, Peru, Portugal*, Romania, Russian Federation, Senegal*, Slovakia*, Slovenia*, Spain*, Sweden*, Switzerland*, Uruguay and Venezuela. Bulgaria, Cuba, Cyprus, Germany, Greece*, Latvia*, Malta*, Panama*, United Kingdom of Great Britain and Northern Ireland and United States of America subsequently joined the sponsors of the draft resolution.

106. The draft resolution was adopted without a vote.

107. For the text as adopted, see chapter II, section A, resolution 1994/40.

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